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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón, in accordance with Commission on Human Rights resolution 1999/56

CONTENTS

		Paragraphs	Page
	Summary		6
I	INTRODUCTION	1 - 12	9
	A Mandate and activities	1 - 6	9
	B Joint mission to investigate allegations of massacres	7 - 8	10
	C Reprisals against individuals who cooperated with the United Nations	9 - 10	11
	D International human rights agreements and cooperation with the United Nations	11 - 12	11
II	THE ARMED CONFLICT	13 - 30	12

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CONTENTS (continued)

		Paragraphs	Page
III	POLITICAL DEVELOPMENT	31 - 47	17
	A In Government-controlled territory	31 - 41	17
	B In territory controlled by RCD and MLC	42 - 47	19
IV	SITUATION OF HUMAN RIGHTS	48 - 107	20
	A In the territory controlled by the Kinshasa Government	48 - 80	20
	B In the territory controlled by RCD and MLC	81 - 107	28
V	VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW	108 - 117	33
	A By the Kinshasa Government	108 - 111	33
	B By RCD and MLC forces	112 - 117	33
VI	CONCLUSIONS	118 - 137	35
VII	RECOMMENDATIONS	138 - 151	38

Annexes

		Page
I	Previous resolutions and reports of the General Assembly and the Commission on Human Rights	41
II	Officials of the Government of the Democratic Republic of the Congo with whom the Special Rapporteur met	42
III	Officials of the Rassemblement congolais pour la démocratie with whom the Special Rapporteur met	43
IV	Other institutions, churches, judges, public organizations, non-governmental organizations and political parties met in territory controlled by the Kinshasa authorities	44
V	Other institutions, churches, judges, public organizations, non-governmental organizations and political parties met in territory controlled by the authorities of the Rassemblement congolais pour la démocratie	46

CONTENTS (continued)

		Page
VI	Places visited by the Special Rapporteur	47
VII	International instruments to which the Democratic Republic of the Congo is a party	48
VIII	Irregular armed groups directly or indirectly involved in the armed conflict in the Democratic Republic of the Congo	49
IX	Armed conflicts developing in the territory of the Democratic Republic of the Congo	50
X	Main peace initiatives undertaken by the international community since the outbreak of the conflict	51
XI	Ceasefire implementation timetable	52
XII	Non-exhaustive list of human rights abuses committed in Government-controlled territories and brought to the Special Rapporteur's attention	54
XIII	Non-exhaustive list of human rights abuses committed in territories controlled by RCD and MLC and brought to the Special Rapporteur's attention	71

Abbreviations

AFDL	Alliance of Democratic Forces for the Liberation of Congo-Zaire (Alliance de forces démocratiques pour la libération du Congo-Zaire)
ANR	National Information Agency (Agence nationale de renseignements)
APR	Rwandan Patriotic Army
APREDECI	Action paysanne pour la reconstruction et le développement
CETA	Training Centre for Airborne Troops (Centre d'entrainement des troupes aéroportées)
COM	Military Court (Cour de l'ordre militaire)
CPP	People's Power Committee
CPRK	Kinshasa Penal and Rehabilitation Centre
CREP-LUCODER	Centre de recherche et d'encadrement populaire
DEMIAP	Detection of Unpatriotic Activities Police (Détection militaire des activités anti-patrie)
FAP	People's Self-Defence Force (Force d'autodéfense populaire)
FAR	Rwandan Armed Forces
FAZ	Armed Forces of Zaire
FDD	Front pour la défense de la démocratie
GLM	Litho Moboti Group (Groupe Litho Moboti)
GSSP	Special Presidential Security Group (Groupe spécial de sécurité présidentielle)
MLC	Movement for the Liberation of the Congo (Mouvement pour la libération du Congo)
MPR	People's Revolutionary Movement (Mouvement populaire pour la révolution)
PALU	Unified Lumumbist Party
PIR	Rapid Intervention Police (Police d'intervention rapide)

RCD	Congolese Rally for Democracy (Rassemblement congolais pour la démocratie)
RCD/ML	Congolese Rally for Democracy/Liberation Movement (Rassemblement congolais pour la démocratie/Mouvement de libération)
UDPS	Union for Democracy and Social Progress
UNHCR	Office of the United Nations High Commissioner for Refugees
UNITA	National Union for the Total Independence of Angola

Summary

1 Mandate

Since 1994, the Commission on Human Rights has made provision for an in-depth study of the situation of human rights in Zaire, now the Democratic Republic of the Congo. This is the sixth annual report of the Special Rapporteur. Resolution 1999/56 of 27 April 1999 extended the Special Rapporteur's mandate for another year. It also requested him, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances, to investigate human rights violations and breaches of international humanitarian law committed in the Democratic Republic of the Congo between 1996 and 1997 and to investigate all massacres carried out on Congolese territory, provided that a ceasefire agreement was reached or security considerations permitted. Unfortunately, the continued violations of the ceasefire agreed upon in Lusaka on 31 August 1999 have not allowed this investigation to be carried out.

2 Activities

Once the Government ban was lifted, the Special Rapporteur was invited to visit the Democratic Republic of the Congo twice in 1999 (in February and August/September), where he met the highest Government officials, including President Kabila. He was also invited to meet the leaders of the Congolese Rally for Democracy (Rassemblement congolais pour la démocratie) (RCD), a movement which, together with the armies of Rwanda, Uganda and Burundi, occupies around 60 per cent of Congolese territory. In fulfilment of his mandate, the Special Rapporteur also undertook missions to Geneva, Brussels and Rome.

3 Main conclusions

Since 2 August 1998, the eastern part of the Democratic Republic of the Congo has been living through a war started by a movement known as the Congolese Rally for Democracy (RCD), which later split in two and is supported by the armies of Rwanda, Uganda and Burundi (countries the Security Council calls "uninvited"). There is another rebel movement called the Movement for the Liberation of the Congo (Mouvement pour la libération du Congo) (MLC). Faced with this situation, the Government of the Democratic Republic of the Congo requested help from the armies of five other countries - Zimbabwe, Chad, the Sudan, Angola and Namibia - in accordance with Article 51 of the Charter of the United Nations. The presence of these armies, in addition to the involvement of various militias, mainly the Interahamwe and Mai-Mai, has created a climate of great insecurity and violence. In the east of the country, international armed conflicts overlap with internal ones. There are also various other armed conflicts.

Violations of international humanitarian law committed by Government forces

The most serious acts have been the bombing of civilian populations by the Congolese Armed Forces and their Zimbabwean and Chadian allies (Kisangani, Gemena, Zongo, Libenge, Goma, Bunga) and reprisals against the civilian population in Bunga and Gemena.

Violations of international humanitarian law committed by the rebel forces allied with the uninvited countries

In reprisal for the attacks on those the Congolese population calls "aggressors" or "Rwandan soldiers", RCD forces have retaliated by massacring defenceless civilian populations with machetes, knives and guns, causing thousands of victims, most notoriously in Chipaho, Lemera, Makobola, Walungu, Mwenga, Mikondero, Kamituga, Burhinyi, Kigulube, Buyankiri, Kasala, Kahungwe, Kashambi and Chifunze.

Human rights violations attributed to the Kinshasa Government

The continued application of the death penalty, which President Kabila justifies by the need to guarantee the population's security, even though he describes himself as abolitionist, the existence of a Military Court (COM) which does not guarantee the rights of the accused, continuous attacks on the independent press (the arrest of journalists, raids on printers, summonses, the use of Mobutu-era freedom-killing legislation), and the systematic use of torture, enforced disappearances and summary executions appear to be the most serious violations. On the positive side, the Minister of Human Rights has tried to make improvements in some specific areas and a solution was found to the problem of "persons at risk" (those of Tutsi appearance, who had to be protected to prevent reprisals by the population).

Human rights violations in RCD-controlled territory

In the territory occupied by the "rebel" or "aggressor" forces, there reigns a climate of terror, humiliation and rejection of those in power. The right to life is constantly being violated, but so are all the public liberties, such as the right to freedom of association, assembly, expression and opinion. There are no independent news media, and the few that did exist were banned. Any dissent or opposition is presented as "attempted genocide". The deportation of prisoners to Rwanda and Uganda is a particularly serious matter. The one positive aspect is that the death penalty, which is provided for by law, is not being applied.

The situation of human rights advocates

In both parts of the country, the situation of human rights advocates is serious. The annexes contain several specific examples of violations of their rights to freedom of association, expression and assembly, as well as their rights to life, physical integrity and liberty of person. President Kabila considers non-governmental organizations (NGOs) as "political parties". For the Governor of South Kivu, civil society is a grouping of extremist political parties.

The right to democracy

There is no form of democracy under the Kinshasa Government; indeed, contrary to the provisions of the Lusaka Agreements, President Kabila has started a "national debate" only on issues of his choosing, and not the "national dialogue" provided for in the Agreements. In place of political parties, which have all been declared illegal, People's Power Committees (CPP) [illegible], a militia called the People's Self-Defence Forces (FAP) have been formed. All powers are vested in the President.

There is also no right to democracy under RCD, as there are no political parties, no freedom of expression, information, association, assembly or political participation and no right to vote. People do not even have the right to criticize what they see as "foreign aggression and occupation". Only RCD is authorized and it is effectively a party-State. The population has had to endure terrible political humiliations, such as the changing of the flag without consultation and the declaration of the "twinning" of the Rwandan capital, Kigali, and the territory of South Kivu, which is even seeking autonomy for itself.

On 10 July, the Lusaka Peace Agreement was signed, although RCD signed it only on 31 August. It contains both military and political agreements. The Ceasefire Agreements have not been observed, since fighting and troop mobilizations have continued, the militias have not been disarmed and the massacres have gone on. Worse still, the parties have continued to use warlike language, in increasingly louder tones every day.

Nor have the political commitments been implemented: the facilitator for the Congolese components of the Agreement has not yet been appointed, President Kabila's Government refuses to hold a "national dialogue" with the participation of widely recognized political parties and civil society, preferring instead a "national debate" limited to the issues it is prepared to discuss.

None of the agreements in the Lusaka Agreement was implemented within the time limits set and most of them have still not been implemented.

I. INTRODUCTION[1]

A. Mandate and activities

1. The Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo submits his sixth report to the Commission on Human Rights, in accordance with General Assembly resolution 53/160 and Commission on Human Rights resolution 1999/56 (see annex I). The report covers incidents that occurred up to 31 December 1999. The General Assembly, in its resolution 54/179, requested the Special Rapporteur to submit a new report at its fifty-fifth session.

2. Two years after suspending cooperation with the Special Rapporteur, the Government of the Democratic Republic of the Congo sent him two invitations. On his first visit, from 16 to 23 February, the Special Rapporteur visited Kinshasa and Lubumbashi. On his second visit, from 27 August to 6 September, he met with President Laurent-Desire Kabila for nearly two hours and also talked with the officials listed in annex II. The Special Rapporteur wishes to stress the excellent cooperation that he received from the Kinshasa Government during his two missions, particularly from the Minister of Human Rights. He also wishes to emphasize that, on 8 November, the Minister of Justice gave the Office of the United Nations High Commissioner for Human Rights permission to visit prisons and other detention centres, in accordance with point 17 (a) of the agreement reached on 21 August 1996 on the establishment of a human rights office in Zaire. It had previously been agreed that a delegation from the office should be allowed to operate in Goma, the headquarters of the Congolese Rally For Democracy (Rassemblement congolais pour la démocratie - RCD).

3. On both occasions, the Special Rapporteur was also received by officials of RCD, one of the two rebel movements in the country; he made two visits to Goma and one to Bukavu, meeting with the officials listed in annex III, who gave him a good reception and who also gave the human rights office permission to carry out activities in Goma.

4. In the two regions into which the conflict has divided the country, the Special Rapporteur met with representatives of various institutions, churches, non-governmental organizations (NGOs), political parties and movements, which are mentioned in annexes IV and V. He also held consultations in New York (5 to 7 April), Kampala (2 September), Geneva (7 to 10 September and 8 to 11 December) and Rome (5 to 7 December). On 25 May, he participated in a meeting in Brussels with the Special Rapporteur on the situation of human rights in Burundi and the Special Representative of the Commission on Human Rights on the situation of human rights in Rwanda; the meeting was also attended by representatives of the Office of the United Nations High Commissioner for Human Rights, the European Union, the Governments of Belgium and the United States of America, the Organization of African Unity (OAU) and others.

5. He also visited police stations, military compounds, prisons and other places of detention, including protective detention, listed in annex VI. Unfortunately, owing to various obstacles and delays, the Special Rapporteur was unable in August to visit the detention centres of the Detection of Unpatriotic Activities Police (DEMIAP) and the Military Group (GSSP) building of the Special Presidential Security Group (GSSP), where a prominent member of the opposition active in the protection of human rights was being held.

6. The Special Rapporteur transmitted two communications to the Government containing allegations of violations of the human rights of 2,375 individuals. He also sent 35 urgent actions on cases regarding 265 individuals. Although the Government acknowledged receipt of five urgent actions, none of the information requested was provided. However, both the Government and RCD sent the Special Rapporteur general reports in response to the issues he had raised in his previous reports and in his interviews. For the most part, the responses consisted of denials of the allegations and of accusations against the other side in the war. In any case, it must be acknowledged that the Minister of Human Rights of the Government of the Democratic Republic of the Congo has admitted that there have been excesses and abuses by the security forces, which have resulted in loss of life and harassment of human rights advocates. In one case, the Special Rapporteur issued a press release. During his second visit, he sent President Kabila a letter asking for clemency for 19 persons who had been sentenced to death. The Special Rapporteur also sent a communication to the President of the Military Court (COM) regarding violations of the rules of due process. All the cases mentioned in annex XII that involve the responsibility of the Kinshasa Government were sent to it in advance for comments.[2]

B. Joint mission to investigate allegations of massacres

7. In paragraph 9 (b) of its resolution 1999/56, the Commission on Human Rights requested the Special Rapporteurs on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out, immediately after the signing of a ceasefire agreement or as soon as security considerations permitted and, where appropriate, in cooperation with the National Commission of Inquiry to investigate human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo (formerly Zaire) between 1996 and 1997, a joint mission to investigate all massacres carried out on the territory of the Democratic Republic of the Congo, including those in the province of South Kivu, and other atrocities as referred to in the report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo submitted at the fifty-fifth session of the Commission on Human Rights (E/CN.4/1999/31), with a view to bringing to justice those responsible, and to report to the General Assembly at its fifty-fourth session and to the Commission on Human Rights at its fifty-sixth session. Accordingly, the Special Rapporteur contacted the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances and informed them of the prevailing security conditions. He took up the issue directly with President Kabila, who expressed his willingness to cooperate fully with the joint mission as soon as security conditions permitted. In his preliminary report to the General Assembly (A/54/361, para. 7), the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo said that, in his view, the security conditions necessary for the conduct of investigations had not been met. Unfortunately, the continued violations of the ceasefire signed in Lusaka, mentioned below, give no reason to change that view at the time of writing, as is reflected in the note by the Secretary-General (see note by the Secretariat contained in document E/CN.4/2000/43).

8. Moreover, the National Commission of Inquiry, which was established by the Government in January to investigate these incidents in response to a request from the Security Council in July 1998, has not been able to carry out its work owing to the fact that most of the alleged incidents took place in rebel-occupied territory or in combat zones.

C. Reprisals against individuals who cooperated with the United Nations

9. In accordance with Commission on Human Rights resolution 1999/16, the Special Rapporteur briefed the Secretary-General on the situation of Commander Makelele Kabunda, arrested on 20 March while attending the Military Court trial of two colleagues accused of having transmitted a report to the Special Rapporteur in February, on the situation of Bofassa Djema, a member of the Executive Committee of the People's Revolutionary Movement (Mouvement populaire pour la révolution - MPR), who was prevented from leaving the country on 23 February, three days after meeting the Special Rapporteur, and on the situation of Kambaji wa Kambaji, political leader of the Union for Democracy and Social Progress (UDPS) in Kinshasa, who was arrested on 19 July on the charge of having sent information to the Office of the United Nations High Commissioner for Human Rights.

10. The most serious case, however, is the persecution in Goma, where RCD has its headquarters, of five human rights advocates from the non-governmental organizations Grande Vision, Centre de recherche et d'encadrement populaire (CREP-LUCODER), Promotion et appui aux initiatives féminines (PAIF), from North Kivu, and Action paysanne pour la reconstruction et le développement (APREDECI), who met with the Special Rapporteur on 21 February; the Special Rapporteur visited them during his brief trip to Uganda to confirm the facts.

D. International human rights agreements and cooperation with the United Nations

11. The Democratic Republic of the Congo is a party to the international instruments listed in annex VII. The Minister of Human Rights indicated on 10 December 1998 that his country would accede to the two additional protocols to the Geneva Conventions of 1949, an announcement that the Special Rapporteur welcomed and reported to the Commission on Human Rights when he submitted his previous report (E/CN.4/1999/31). Unfortunately, 12 months after the announcement, the decision still seems to rest with the President, who is awaiting a report from the Ministry of Defence.

12. The Special Rapporteur welcomes the fact that, with the help of the Human Rights Field Office in Kinshasa, all the international instruments to which the Democratic Republic of the Congo is a party were published in a special edition of the *Official Gazette* of 9 April. However, he regrets the stance taken by the President of the Military Court, who maintains that the Court interprets international law as subordinate to domestic law, so that the latter is applied whenever there is any conflict between them, contrary to the provisions of article 27 of the Vienna Convention on the Law of Treaties.

II. THE ARMED CONFLICT[3]

13. On 2 August 1998, war broke out in the Democratic Republic of the Congo, six days after President Kabila's expulsion of his former ally, the Rwandan Patriotic Army (APR), from the country. An unknown party, later known as the Congolese Rally for Democracy (RCD), attacked the Democratic Republic of the Congo with the support of Rwanda, Uganda and Burundi. Rwanda and Uganda have openly acknowledged their support, while Burundi continues to deny its involvement. In November 1998, another armed group, the Congolese Liberation Movement (Mouvement pour la libération du Congo - MLC), began to operate. By 31 August 1999, these groups had occupied 60 per cent of the territory. RCD split into two factions, one based in Goma (RCD/Goma) and the other in Kisangani, though it later moved to Bunia and changed its name to Congolese Rally for Democracy/ Liberation Movement (RCD/ML), better known as RCD/Bunia. Both factions signed the Lusaka Peace Agreement, despite strong internal disagreements, on 31 August. They are both at risk of further splits, as their Congolese members are becoming increasingly frustrated at their unpopularity throughout Congolese society, from the east to the west, and at the ever-increasing influence of the Rwandan members. A new rebel group, the Congolese Liberation Front (Front de libération du Congo - FLC) emerged in Bandundu, and is apparently supported by the National Union for the Total Independence of Angola (UNITA).

14. Invoking the inherent right of individual or collective self-defence, as set out in Article 51 of the Charter of the United Nations, and as recalled in Security Council resolution 1234 (1999) of 9 April 1999, troops from Angola, Namibia, the Sudan, Chad and Zimbabwe intervened in the conflict in support of the Congolese Armed Forces (FAC). In addition to the nine national armies, there are at least 16 irregular armed groups (see annex VIII). The presence of so many armies and armed groups can be explained by the fact that various other domestic and foreign conflicts are taking place in the territory of the Democratic Republic of the Congo, such as the conflict that has arisen in the territories of Irungu and Djugo (Orientale province) between the Hema and the Lendu ethnic groups. The former are of Ugandan origin and the latter of Sudanese origin and they have lived together peacefully for centuries, dividing up the land peacefully, but today they are on a war footing as a result of the support given to the Hema by the Ugandan forces stationed in the country. In June, the Bahema attacked and stabbed to death many Lendu in Kibali Ituri and, later, many Bahema from Uganda came to live in the country, increasing the Congolese people's apprehension that the conflict started by RCD with the support of Rwanda and Uganda is intended to bring about the partition of the country or secession of part of it (see annex IX).

15. Throughout the country, both within and outside the occupied zone, the war is perceived as foreign aggression intended to lead to the secession of part of the country or its annexation by Rwanda (the President of Rwanda admitted in 1998 that his Government intended to organize a second "Berlin Conference" - a reference to the 1885 Berlin Conference that fixed the colonial borders). High-ranking religious leaders representing the Roman Catholic, Protestant, Kimbanguist, Orthodox and Islamic faiths, headed by Cardinal Eltsou, issued a statement on 23 August demanding the withdrawal of all the foreign troops that had come to plunder the country's wealth.

16. The violence has been extreme, especially in the east. The activities of the foreign-backed rebels have been countered by the terrorism of the Mai-Mai nationalist guerrilla fighters,[4] who are supported by the population, with the commendable exception of human rights advocates who continue to oppose violence of any kind. The health infrastructure has been completely destroyed and the population has reverted to traditional medicine. On both his visits to the zone, the Special Rapporteur had the impression that an atmosphere of terror prevailed. The people living in the occupied territory consider the Interahamwe to be primarily responsible for the violence, followed by the Mai-Mai and the "Rwandan soldiers". However, when asked whom they feared most, they first mentioned the Rwandan soldiers, then the Interahamwe and, finally, the Mai-Mai, "who do not kill Congolese", even though they do force the population to give them food. Following the appointment of the Mai-Mai commander Sylvestre Luetcha as Army Chief of Staff at the beginning of September, the Kabila Government can no longer disclaim all responsibility for the violations of human rights and international humanitarian law committed by that group.

17. At the end of the first year of the conflict, it was estimated that 6,000 people had lost their lives, not including those who died fleeing in the jungle, and that 500 were missing, not to mention the thousands who had been displaced or had sought refuge abroad. As is usually the case, most of the victims have been civilians, owing to the reaction of RCD officials and soldiers. When Mai-Mai guerrillas and Rwandan Interahamwe militia attack RCD-controlled towns, RCD requests reinforcements. If, on arrival, the reinforcements do not encounter the enemy, they have been known to commit unspeakable massacres of the civilian population, as in the cases which are mentioned in paragraph 112 and which RCD now considers "unfortunate mistakes". The most deplorable actions by the Government in 1999 were the bombing of the civilian populations listed in paragraph 109. In addition, there were attacks on the Tutsi civilian population by the Mai-Mai and the Interahamwe which led to reprisals by RCD.

Peace initiatives

18. There is a general feeling throughout the country that "the international community is not doing anything to end the conflict". This has been expressed by President Kabila, RCD officials, people living in the territories controlled by the Government or by RCD, civil society, religious leaders, political parties, etc. In the opinion of the Special Rapporteur, that sentiment is the result of some confusion and is unfairly critical of a number of African countries, particularly Zambia, the Libyan Arab Jamahirya and South Africa (see annex X), which have done their best for the cause of peace. It is the protagonists - the Governments of the Democratic Republic of the Congo, Uganda and Rwanda and the leaders of RCD and MLC - who have always been intransigent. Many of the meetings that were called were unsuccessful because the parties concerned did not attend. The Peace Agreement concluded in Sirte, Libyan Arab Jamahirya, was not signed either by Rwanda or by RCD and Uganda later claimed that it was only a letter of intent. In May, Rwanda declared a unilateral ceasefire, which was broken after the bombing of Kisangani. Moreover, there is no consensus in Congolese society on what it would like from that abstraction called the "international community". Whereas the President thinks that the country should be helped to expel the "aggressors" and that the international community should not bring up the subject of democracy or human rights, the political opposition is calling for it to exert pressure for the setting up of a State based on the rule of law in which fundamental freedoms are respected, as well as for the withdrawal of the aggressors. The Government

believes that it should be the recipient of technical and financial assistance, while the opposition believes it should be channelled through civil society institutions, and so on and so on.

19. The Congolese people are grateful to African countries for their efforts to end the war, but they cannot understand some of the terminology used in international law today. The question most commonly put to the Special Rapporteur by people from all levels of Congolese society was: "Why are the aggressors called 'uninvited countries' or 'forces opposed to the Government that are violating national sovereignty and territorial integrity'?"

Categorization of the conflict

20. In paragraph 41 of his report (E/CN.4/1999/31), the Special Rapporteur categorized the conflict in the Democratic Republic of the Congo as an internal conflict with the participation of foreign armed forces. Various facts make it necessary to reconsider this viewpoint. Foreign armies, including those who responded to the appeal by President Kabila to intervene in accordance with Article 51 of the Charter of the United Nations and those described by the Security Council as "uninvited" countries, have exchanged prisoners in accordance with the provisions of the Third Geneva Convention of 1949, prisoners have been visited and exchanged in territories of the "uninvited" countries, there have been clashes typical of any war between foreign national forces in Congolese territory, and "uninvited" States have signed the Lusaka Ceasefire Agreement, which specifically refers to prisoners of war and the mixed nature of the conflict. The Special Rapporteur therefore believes that there is in fact a combination of internal conflicts (RCD against the Kinshasa Government and MLC against Kinshasa) and international conflicts, such as the conflict between Rwanda and Uganda in Congolese territory, clashes between the Rwandan and Ugandan armies and FAC. In the international conflicts, respect for the four Geneva Conventions is required, while, in the internal conflicts, the provisions of article 3 common to the four Conventions are applicable.

Ceasefire of 10 July

21. The ceasefire agreed upon in Lusaka by the Presidents of the Democratic Republic of the Congo, Namibia, Rwanda, Uganda, Zimbabwe and Angola (witnessed by representatives of the United Nations, the Organization of African Unity (OAU), the Southern African Development Community (SADC) and Zambia) was not signed by the rebel groups of RCD (its two factions) or MLC. The latter signed on 1 August and, on 31 August, RCD had it signed by 50 of its founding members, thereby revealing not unity, but deep-seated internal differences.

22. The Ceasefire Agreement (S/1999/815) contains military and political aspects. The latter will be considered in chapter III. The military aspects provide for an immediate ceasefire, the release of hostages within three days (although this concept is unclear, since those whom RCD regards as "hostages" are considered by the Kinshasa Government to be "protected persons"; the word "hostages" is not defined in annex A of the Ceasefire Agreement), a joint military commission and an international peacekeeping force administered by the United Nations. Prisoners have to be released after between 7 and 30 days and the vital, but difficult, task of disarming the armed groups has to be accomplished after between 30 and 120 days (see annex XI). The Special Rapporteur notes that the fulfilment of many of the provisions that have been adopted is beyond the control of the parties, so that there is a great risk they will be called a

failure, this is in fact what has happened. The integrity of the Congolese borders has been confirmed. It is important to note that the parties are required to refer all identified cases of genocide to the International Criminal Tribunal in Arusha and to hand over those responsible for war crimes and crimes against humanity to the national courts.

23. Until now, in operational matters, the only party to have fulfilled its obligations under the Ceasefire Agreement appears to be the United Nations. As soon as it was signed by the rebels, the United Nations dispatched 90 officials (initially 33) to liaise between the capitals concerned and the observer countries and organizations (Zambia, the United Nations and OAU), even though the Government of the Democratic Republic of the Congo provided security guarantees for United Nations staff only until 10 November. At the time of going to press, the United Nations was preparing to send 500 observers to monitor the ceasefire with a view to further deployments as soon as security conditions permitted and to form the advance party of the peacekeeping operation (Security Council resolution 1279 (1999) of 30 November 1999). Unfortunately, the reception the liaison officers received in Kinshasa was disappointing and indicative of the smear campaign to come: they had to listen to allegations that the United Nations had been responsible for the killing of Patrice Lumumba 38 years earlier and that some of them were assassins hired to kill the President, they were warned not to become involved in domestic politics and were reminded of their obligation to report everything to the Government. In addition, the Secretary-General appointed the Tunisian Ambassador Kamel Morjane as his Special Representative for the Democratic Republic of the Congo. Also, the "international community" quickly appointed the Chairman of the Joint Military Commission (General Rachid Lallali of Algeria), well before the combatants appointed their representatives. The OAU deployed its first 15 observers in compliance with the Agreement.

24. On a purely military level, the persistent and apparently justified allegations of ceasefire violations led the Security Council to call on all parties to the conflict to implement the Agreement in full. The fighting, mobilization of troops and equipment and arms purchases have continued, in violation of the provisions of the Agreement. The armed groups have not been disarmed, President Kabila even appointed Mai-Mai Commander Luetcha as Army Chief of Staff, giving legitimacy to his actions, and RCD carried out further massacres of defenceless civilians. Nevertheless, generally speaking, the positions of the parties are the same as they were before the Agreement and most of the allegations are linked to the occupation of the very rich diamond-producing city of Mbuji-Maji.

25. A more serious concern is the attitude of the parties, who do not seem prepared to give up the military option. On 19 October, the Vice-President of Rwanda, Paul Kagame, stated: "It was not an invitation from the Congolese that brought us here, but our own security problems. We now have to stay, for other reasons of our own." The Mai-Mai group Union des forces vives pour la libération et la démocratie has declared that it will carry on the war against Rwanda, Uganda and Burundi for 100 years. In the area under Kinshasa's control, the Minister for Foreign Affairs has said they will attack without regard for the limitations set by the United Nations Organization mission in the Democratic Republic of the Congo (MONUC) and other "clock-watchers", while inflammatory statements are being made to continue with the war. The MLC President has said that the fighting will go on, as the agreements mean nothing.

26. To sum up, at the time of writing, none of the military deadlines set in the agreements have been met (see annex XI).

Refugees abroad

27. The United Republic of Tanzania and Zambia have been the main countries of asylum for Congolese fleeing from the war. Rwandans have also sought asylum in their flight from the Mai-Mai.

Refugees in the Democratic Republic of the Congo

28. External conflicts have led to the presence of refugees in the Democratic Republic of the Congo, mainly from Brazzaville, Congo (40,000, although some 7,000 have returned) and Cabinda, Angola. The Government, in violation of its international obligations, has sometimes deprived them of their liberty. There are some 13,000 Rwandan Bahutu refugees in the Democratic Republic of the Congo, following the voluntary return of 4,750 persons.

Displaced persons

29. The war has led to the displacement of about 800,000 people, many of whom are hiding in the jungle, particularly those who were not able to reach the United Republic of Tanzania. In February, the Special Rapporteur visited the Kamalondo centre in Lubumbashi, which was sheltering about 382 people.

Persons at risk

30. This classification has been given to Tutsi or people who look like Tutsi who live in the area controlled by Kinshasa and who fear attacks against them by the civilian population. In order to protect them (RCD has not accepted the need for this, insisting that they are hostages), the Government housed them in January at the Kokolo military camp and then transferred them to facilities provided by the National Social Security Institute (INSS) in Kinshasa. In Lubumbashi, they were sheltered in the former Batika convent and in Kolwezi. The Special Rapporteur visited the INSS club and Batika, as he reported in his oral presentation to the Commission on Human Rights. The accusation by RCD that the Special Rapporteur has forgotten all about these people is therefore untrue. Once the visas were obtained, the Government, in conjunction with the African and Western host countries and with the assistance of the International Organization for Migration, made the necessary arrangements for asylum, ensuring that the Congolese were able to return freely. Already, 731 people have left to go to third countries, while 438 have been repatriated to Rwanda and Burundi with the help of the International Committee of the Red Cross. However, persons at risk continue to come forward. Now, at the end of November, it is estimated that about 1,000 people are being protected by private individuals, but that they also intend to seek asylum.

III. POLITICAL DEVELOPMENT

A. In Government-controlled territory

31. In all his reports, the Special Rapporteur has drawn special attention to the importance of the "human right to democracy", since, as stated in paragraph 1 of Commission on Human Rights resolution 1999/57, for which the Democratic Republic of the Congo voted, "democracy fosters the full realization of all human rights" and since "the realization of all human rights is indispensable to human dignity and the full development of human potential and [is] also integral to democratic society" (para. 3). The Special Rapporteur notes that none of the eight elements mentioned in paragraph 2 as essential for democratic governance are in place in the Democratic Republic of the Congo today. According to the announcements made when the President assumed power, the transition to democracy should have been completed on 17 May. This transition has not yet begun. Essentially, the Kinshasa regime has not changed. The President continues to exercise full executive powers (which is normal), he also exercises legislative powers (bodies such as the Commission on Institutional Reform or the Committee on the National Debate are only advisory) and has significant powers in respect of the judiciary (E/CN.4/1998/65, paras. 32-37; E/CN.4/1999/31, paras. 16-24), as was confirmed recently, in October, when the Government appointed and promoted judges without consulting the Supreme Council of the Judiciary.

32. The new law on political parties, Decree-Law No. 194 of January 1999, was presented as a "liberalization of political activities". Although it contains reasonable provisions aimed at preventing the establishment of tribal, regional or family parties, it also includes requirements that would be difficult to meet and that are aimed at eliminating possible opponents (founders must have lived for the whole of the previous year in the country, they must produce physical and mental health certificates, they have to accept political proposals made by the current Government and they have to put down a deposit of US$ 10,000) so that the operation of political parties is ultimately subject to the approval of the Ministry of Justice, which authorizes them and suspends them if there is a risk of a breach of the peace (arts. 15 and 40). The most serious aspect, however, is that, since the Decree-Law entered into force, all legally constituted parties have been illegal. No party that had been legally constituted before the promulgation of the new law has registered in accordance with the Decree-Law and the 10 parties that were interviewed confirmed that none of them would do so. The Special Rapporteur received reports of detentions, searches and other forms of persecution affecting about a dozen parties, which demonstrates that the law has in no way changed the previous situation. The President told the Special Rapporteur that "NGOs and churches should also register as parties", as they actually perform the functions of political parties.

33. The greatest problem is that the Decree-Law on the "national debate" and the Lusaka Peace Agreement envisage the participation of delegates from opinion groups, Congolese political and civil organizations ... without exception, Congolese parties and the political opposition. When asked what parties or groups these would be, the President, the Minister of Information and the Vice-Chairman of the Organizational Committee for the National Debate all gave the same reply: "In order to avoid chaos, they will obviously be parties that comply with the law." There are no such parties. For the President, "parties are a source of division among the Congolese".

34. The clearest sign that no one had understood that there would be political liberalization is the previously cited statement issued on 23 August by the principal religious groups, which calls for "freeing the political arena".

35. There has been no talk of a new Constitution, even though in 1997 the President established a drafting commission which, after some delay, submitted a draft that was unacceptable to the democratic sectors. It was submitted to a Constituent Assembly whose members are not known and which never produced a report, passed on to the new Commission on Institutional Reform, which has disappeared from view, and was never the subject of a referendum, as had been announced. All of that was quickly forgotten, until the beginning of the "national debate", which, like all the preceding intiatives, is limited to supporters of the regime.

36. Decree-Law No. 213 of 27 March 1999 calls for a national debate to discuss three issues selected, without prior consultation, by the President: legitimacy of power, the draft Constitution and Decree-Law No. 194 on parties. An organizational committee appointed by the President is being established and its report will be submitted to him. There will be delegates from opinion groups and exiles and "invited personalities". The Vice-Chairman of the Organizational Committee said that the latter might include the leaders of disbanded political parties. In the first five months, many people registered to participate and the Government selected 181 of them; dates were set and postponed, venues were selected and changed; the most frequently proposed facilitators visited the country (Father Mateo Zuppi, from the Italian Catholic Community of San Egidio and the former President of Benin, Mr. Zinsou, on 20 and 21 September); three committees were established, but only the Organizational Committee was in operation as of 14 October. On that date, the "debate" was launched, but the only people taking part in the opening ceremony were State officials, members of the People's Power Committees and, as a token of openness, several leaders from the Mobutu regime. There was no one from non-governmental organizations, churches or political parties recognized as such by civil society, which looked on with total indifference. Moreover, since that date not even the "debating" bodies have been working and only propaganda activities have been carried out.

37. The Peace Agreement envisages a "national dialogue" (inter-Congolese political negotiations), with the participation of the Congolese parties, namely, the Government of the Democratic Republic of the Congo, RCD, MLC and the political opposition, which the Government understands to be the "legal" parties, in partnership with the driving forces of the nation, all with identical status. Civil society in the two sectors into which the country is divided has expressed great confidence in the dialogue and is demanding that it be held. The dialogue is its first opportunity to express itself since the historic National Sovereign Conference of 1991-1992. However, the leaders of the Democratic Republic of the Congo and RCD are not keen on it. Kabila and the preparatory committee for the debate told the Special Rapporteur that the dialogue was very complex and that the debate would suffice, while the Minister for Foreign Affairs, in opening the debate, said - clearly contradicting the Lusaka Agreements - that there would be no dialogue until the political parties, NGOs and rebels reached an agreement. The United Nations General Assembly made itself quite clear: it called upon the Government to implement fully its commitment to the democratization process, in particular the national dialogue, as set out in the Lusaka Ceasefire Agreement (resolution 54/179, para. 4 (d)). The excuse given by RCD is that the dialogue lacks facilitators, a venue and substance.

38. One of the key provisions of the Lusaka Agreement is that "the inter-Congolese political negotiations shall be under the aegis of a neutral facilitator to be agreed upon by the Congolese parties" (art. III, para. 19) and that the facilitator should be appointed within 15 days of signature. The dialogue itself was to be held within 45 to 90 days. All these deadlines passed without any agreement being reached, even though the international community has put forward eminent individuals with impeccable democratic credentials and acknowledged moral and intellectual prestige, credibility and experience. The RCD and MLC leaders have rejected all the names put forward, thereby delaying one of the key aspects of the Agreement. At a meeting of the parties in Lusaka on 19 November, there was agreement in principle on Father Mateo Zuppi and the former President of South Africa Nelson Mandela, but the Government continues to be opposed to the appointment of the latter.

39. The Government has also been criticized for establishing People's Power Committees (CPPs) to replace the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), which brought Kabila to the Presidency. Their functions include organizing the people and establishing policy in all aspects of national life. All inhabitants, at their respective levels (neighbourhood, commune, town, city), are members. At their first congress, the President defined the Committees as the new democracy. They are financed by the State and their Executive Secretary is a former minister of President Kabila's Government, Rafael Ghenda. The population likens them to a single party and complains that sometimes its members have acted as police informants to have opponents arrested. There have even been reports that its members have taken part in the arrest of opponents and that they are inclined to interfere in the administration of justice.[5]

40. Worse still, in a clearly provocative move against the civilian population, condemned by the Special Rapporteur for the huge risk it carries for the civilian population, on 14 November, the Government authorized the CPPs to carry weapons. For that purpose, it created the People's Self-Defence Force (FAP), a private militia with 50 members per neighbourhood who will be given weapons to defend the homeland on the grounds that it is an extension of the army.

41. The army continues to have a very strong influence. According to reliable reports, there are 13 security, military and police forces, apparently all authorized to make arrests. One positive feature is the recent replacement of the former classification between commanders and troops by the establishment of ranks - lieutenant-general, brigadier-general, colonel, lieutenant-colonel, major, force commander and regional commander - which should prove useful in determining responsibility and ending impunity. However, that progress is cancelled out by the virtual incorporation into the army of the Mai-Mai and their criminal activities, which invites a reaction from RCD.

B. In territory controlled by RCD and MLC

42. In the territory controlled by RCD, there is no party but it and another small party called the Reformers' Movement. In January, when confronted with the defection of its first president, RCD held a general assembly that established an assembly and a collegial presidency consisting of eight members as the only way of harmonizing its various civilian, military and Congolese components and those perceived as foreign by the population. In March, the rift was consolidated when its new president, Wamba dia Wamba, who is supported by Uganda, left for

Kisangani and, later, Bunia. In May, supporters of the Rwanda-backed Goma faction clashed with supporters of the Kisangani faction, leaving between three and eight people dead. In Goma, the assembly established in January was dissolved in June and a further defection in October was added to those in January and March, when the Katanga section rebelled against the majority, which was perceived as foreign.

43. The worst confrontations occurred between 15 and 18 August, when Ugandan soldiers clashed with Rwandan soldiers in Kisangani, resulting in the deaths of some 200 soldiers and 30 civilians, who, needless to say, were Congolese. The residence of the Congolese bishop Laurent Monsengwo, who has been critical of the Rwandan presence in his homeland, was attacked by the Rwandans. Other clashes between the factions have taken place in Beni, Buter.bo, Rutshuru and other towns.

44. In order to deal with the civilian population, most of which is hostile to it, RCD has established "self-defence groups", trained by Rwandan soldiers. These groups have often been accused of arresting or kidnapping individuals. State radio has called on people to join them. The groups constitute a real paramilitary force, which has even been accused of the death of a priest.

45. Various measures adopted by RCD have increased hostility towards it: the flight of national wealth to Uganda and Rwanda; the introduction of a new flag for the region; the declaration of the "twinning" of Kigali and the South Kivu region; and, lastly, the formation of a so-called parliament (*baraza*), the members of which were appointed by the Governor of South Kivu. In November, a dispute within RCD/Goma introduced a further factor, the intention being to establish a sort of federal state in South Kivu, so as to be no longer dependent on Goma.

46. During his two visits to Goma and one to Bukavu, the Special Rapporteur was struck by the prevailing climate of terror and humiliation in RCD-controlled territory.

47. The Special Rapporteur has not been able to obtain information on the political situation in the territory controlled by MLC.

IV. SITUATION OF HUMAN RIGHTS

A. In the territory controlled by the Kinshasa Government (annex XII)

1. Right to life

Death penalty

48. In his oral presentation to the Commission on Human Rights at its fifty-fifth session, the Special Rapporteur said that "in 1999, such sentences (by the Military Court) have not been carried out, which indicates progress with regard to what I stated in the report". That same month, the practice of public executions was resumed and, during the year, a very large number of people – particularly members of the former Armed Forces of Zaire (FAZ) or civilians found guilty of armed robbery – were sentenced to death. Over 130 executions were reported, some for such petty reasons as refusing to eat the food served up, which was considered a "military

revolt". On the occasion of the fifty-first anniversary of the Universal Declaration of Human Rights, the Minister of Human Rights announced a moratorium on the application of the death penalty.

49. In a letter to the Secretary-General of the United Nations, the Government explained the fundamental reasons behind the application of the death penalty. The Special Rapporteur discussed the matter at length with the President. Both the Government and the President declared themselves to be abolitionists. The death penalty was defended both for historical reasons ("it was established by the Belgians in 1940 for 17 crimes") and for practical ones ("the people must have security; we don't have a reliable judiciary, people arrested for serious crimes are always released, we don't have high-security prisons"). The Special Rapporteur does not, of course, share these views, which are the same ones cited by those who are not abolitionist.

Enforced disappearances

50. The Special Rapporteur has received information, which he transmitted to the Government, on the disappearances of 14 persons following their arrest, at various times and under various circumstances; the missing include a journalist, a soldier and four persons of Tutsi origin. Most of these acts have been attributed to the Rapid Intervention Police (PIR), the National Information Agency (ANR) and the Special Presidential Security Group (GSSP).

Arbitrary taking of life through abuse of power protected by impunity

51. There have been many reports of attacks resulting in death and committed with the intent of taking money, property or vehicles.

Death by torture

52. At least four cases of death by torture are known to the Special Rapporteur. The Ambassador of the Democratic Republic of the Congo, in his address to the General Assembly, claimed that two of the cases mentioned in the preliminary report (A/54/361, in which no names are given, for the reasons outlined in note 2 of the report) could be discounted, as the victims were alive and well and living in France and Belgium. The Special Rapporteur maintains that the two individuals concerned died as a result of torture. Colonel Ndoma Moteke, who was arrested on 14 November 1998 on charges of being a rebel agent and tortured, died in prison on 21 May 1999 as a result of being tortured; and Nyenyezi "Etoile", the son of a former member of the National Gendarmerie, who was arrested on 1 July 1999 and tortured in the camp at Badiadingi, Kinshasa, died on the same day of the same causes.

2. Right to physical and psychological integrity

Torture

53. The most frequent cases that have come to light involve former members of FAZ. The forms of torture reported basically consist of beating, humiliation (stripping) and asphyxiation. Journalists, political leaders, human rights activists, university professors, a Protestant minister and even refugees from the Republic of the Congo (Brazzaville) have been tortured and there

have been reports of women being raped in detention centres or during raids. The locations most frequently cited are the Litho Moboti Group (GLM) building, the GSSP office in Kinshasa (which the Special Rapporteur visited in February), national police headquarters and the provincial police inspectorate in Kinshasa. Other places where torture is often said to be practised are the National Palace, where the Training Centre for Airborne Troops (CETA) is allegedly based, the ANR offices, which the Special Rapporteur visited in September and where he met with Congolese refugees from Brazzaville and Cabinda, the barracks of the 50th Army Brigade (Kokolo camp), the punishment cells (*cachots*) of the provincial police inspectorate (formerly Circo), and the Detention of Unpatriotic Activities Police (DEMIAP) compound.

3. Right to security of person

54. Although the right to security has largely been restored since the fall of the Mobutu dictatorship, the fact that there is no real rule of law has permitted abuses of authority against which the courts have been powerless to act. Notable cases include: the arbitrary requisition, on behalf of the Office of the President, of a house that was not even one of the properties subject to this measure (26 January), prior to which the person concerned was held in prison for eight days; the refusal by an official of the Ministry of Justice to hand over a house bought by a Greek citizen at an auction; and the arson attack on the studios of a radio station recently started up by a Pentecostal church.

55. The presence of UNITA militiamen in Kinshasa led the Government to declare a curfew between 9 p.m. and 6 a.m.. The effect on personal security has been disastrous, owing to harassment by soldiers and police officers, in the form of arrests made with the sole intention of extorting money, rapes and even several alleged murders.

4. Right to liberty of person

56. The Special Rapporteur cannot support the President's claim that "there are no political prisoners in the Democratic Republic of the Congo since I have not ordered anyone's arrest". This is clearly one of the least respected rights in the country. The Special Rapporteur was told, and can confirm, that "leaders and supporters of all the political parties except CPPs have been arrested". Political leaders, activists, union leaders, journalists, soldiers, students, traditional chiefs, priests and pastors, attorneys acting in their professional capacity and refugees are constantly being arrested for no apparent reason. Most arrests are made by ANR, the police, GSSP, DEMIAP and PIR. Sometimes the arrests appear to be ordered by the State Security Council. Often, no reason for the arrest is given, nor are the detainees brought promptly before a judge. Cases have been reported where persons have been able to buy their freedom. The reason most often cited is collusion with the rebels, an accusation that is often made against foreigners. Even government ministers, police officers, senior public officials, judges and magistrates have been arrested; some of them have been subsequently reinstated in their positions. The President of the Military Court (COM) himself, Kukuntu Kiyana, was arrested in August 1998 and tried by that very court for links with the rebels. The Special Rapporteur visited him in February in prison and in September at the Court, where, once more as a judge, he was preparing to resume the COM Presidency.

57. The Special Rapporteur received complaints about the power of the CPPs to order arrests. On 28 May, 15 members (one aged 15) of the Union for Democracy and Social Progress (UDPS) were arrested and taken to the Kinshasa Penal and Rehabilitation Centre (CPRK) and then to ANR by police officers acting in collusion with officials of the Kimbanseke CPP, and the President of the Former Parliamentarians Association was arrested in Kinshasa in October on the orders of the chairman of the local CPP for holding an unauthorized meeting (on 30 September).

58. Attention is drawn to the large number of soldiers who have been deprived of their liberty, some for over a year, without a trial. The Special Rapporteur wanted to visit them at DEMIAP, however, despite reports that they had been moved to another detention centre in anticipation of that eventuality, it was not possible to visit the premises of DEMIAP. Among the prisoners are the founders of some branches of AFDL, intelligence chiefs who carried out President Kabila's orders or who were entrusted by him with important military tasks. The most common charges are "collusion with the rebels" or "contacts with military leaders supporting Mobutu", other charges include being (allegedly) of Rwandan nationality or being related to a rebel leader. Some are imprisoned on the unusual charge of coming to the aid of a prisoner. Most of the soldiers are from Equateur (Mobutu Sese Seko's home province), which makes them suspects in the eyes of the Government. Many of them have never been tried; others have, but have been sentenced to death, and several have been executed. At least two have disappeared. Very few have been released.

59. The Special Rapporteur notes that a small number of political leaders, journalists and human rights activists have been released; these are positive steps, but clearly not enough to restore the right to liberty of person. Some of the soldiers released have apparently been sent to the front (as in the case of the 1,600 soldiers released in May). On 10 December, the Minister of Human Rights announced the release of 156 prisoners, including some held for political reasons.

Prison conditions

60. The Special Rapporteur noted in February that improvements had been made in CPRK (formerly Makala prison), although conditions in the remaining prisons are appalling. However, the latest information clearly shows there has been some backsliding, with senseless measures such as not allowing families to take newspapers or water to prisoners. At Lodja prison in Kasai Oriental, two thirds of the buildings have no roofs and there is no health care. Inmates suffer from an alarming level of malnutrition and all sorts of epidemics. The Special Rapporteur also visited Kasapa prison in Lubumbashi, where three children of between 12 and 18 months of age were with their inmate mothers and were not receiving any assistance whatsoever. In Boma, Likasi, 70 per cent of the inmates suffer from malnutrition and many have dysentery and other illnesses. They are visited by representatives of the International Committee of the Red Cross (ICRC), which provides food, and, since 8 November, the Office of the United Nations High Commissioner for Human Rights. Visits to the cells of GSSP, ANR and DEMIAP are extremely rare.

Right to enter and leave one's own country

61. Many political leaders, journalists and even traditional chiefs have been prevented from leaving the country or even from leaving Kinshasa: over 100 cases are known to the Special Rapporteur. Sometimes their passports have been confiscated.

5. Right to due process

Concerning criminal charges

62. The most serious denial of justice takes place in the Military Court. Whereas the Court was set up under Decree-Law No. 19 of 23 August 1998 to try cases of abuse by the military and by police officers and cases of armed robbery, it has tried civilians, including opponents and journalists, for crimes of opinion (see the cases of the journalists Kyalumba, Kikulkunga, Bella Mako and many others). The Military Court does not escape the criticism levelled at military courts all over the world, that they do not meet the requirements for an independent and impartial trial. At a seminar in August attended by prominent figures from the legal community, including military judges, it was rightly claimed that the Military Court had been granted "exorbitant powers" in breach of international standards on the administration of justice and it was added that, in practice, it had "increased its exorbitant practices".[6] The Special Rapporteur disagrees with the claim by the current and the former President of the Court (who was himself a prisoner) that all the provisions of article 14 of the International Covenant on Civil and Political Rights are observed. It is not possible to uphold the right to a defence when the trial is held a few hours after the crime and the accused is not given the opportunity to see a lawyer and has no time to prepare a defence or gather evidence. The situation as described in paragraphs 90 to 92 of document E/CN.4/1999/31 remains unchanged. Of greatest concern is the frequent imposition of the death penalty. Although the Military Court was established to try only soldiers and persons accused of armed robbery, many members of the opposition have been tried and sentenced to prison.

Impunity

63. The human rights violations discussed in this report, as well as those referred to in previous reports, continue to go unpunished, since no convictions of the perpetrators have been reported. As stated in the preamble to Commission on Human Rights resolution 1999/34 of 26 April 1999 on impunity, "the practice and expectation of impunity for violations of international human rights or humanitarian law encourage such violations" and are among the fundamental obstacles to the observance of those rights.

6. Right to freedom of expression and opinion

64. On 26 June, the Minister of Justice declared that the Government and security forces would not hesitate to take harsh action against any person, especially journalists, who unjustly attacked the Head of State or a member of the Government.

65. In fact, it is the security forces that make the arrests, sometimes without instructions from the Government, which should ultimately assume its responsibility. The Special Rapporteur

learned of an order signed by the Director of Operations of the State Security Committee, acting on behalf of the Special Security Adviser to the Head of State, instructing Commander Shabani, accompanied by two soldiers, "to bring in the person responsible" for three daily newspapers that he names, without giving any legal basis or reasons, as well as a summons, also without any legal basis whatsoever, signed by Commander Etienne Kabundi of GSSP, the reason for which "will be explained when the person in question shows up". On some occasions, the Minister of Information has intervened to have a journalist released.

66. The Minister of Information informed the Special Rapporteur that the Government recognized as newspapers only the 50 or so that had legally registered under the Freedom of the Press Act, dating from the Mobutu era (Act No. 002/1996). According to him, the rest are "scandal sheets".

67. Concessions for radio frequencies and television channels require authorization from ANR. As part of the terms and conditions, the applicant must agree to treat political news "with impartiality and objectivity". State television has clamped down on all time slots opened up during the Mobutu era, following the 1991/1992 National Sovereign Conference. Private television some airtime, but it is extremely limited by self-censorship. The same is true for State radio, where there is no airtime for the opposition. There are six private radio stations in Kinshasa, all of which have reported "confirmed irregularities", such as "making a radio transmitter available to BBC Network Africa to broadcast from the Democratic Republic of the Congo. Raga SPRL thus took the place of the Congolese State" or "transmitting Vatican Radio news in full".

68. Many journalists have been arrested, prevented from leaving the country and harassed. One has even disappeared.

7. Freedom of association

Non-governmental organizations

69. As in the case of political parties, new laws required non-governmental organizations (NGOs) to reorganize themselves, which none has agreed to do. Regrettably, the Government (with the exception of the Minister of Human Rights) regards NGOs as a kind of enemy to be fought or, at best, as "political parties, like the churches" (as Kabila told the Special Rapporteur). The Special Rapporteur wishes to state here that, contrary to the President's claims, NGOs have proven their professionalism and dedication to the cause of human rights. The most relevant example concerns the arrest of a minister known for his hatred of NGOs; the latter demanded the minister's release even though the president of one of them was arrested as a consequence of that action. Some 50 NGO leaders have been arrested this year (many of them are still being held) and many have been harassed; the organizations closed down the year before are still prevented from working and NGO headquarters have been searched, with or without the proper warrants.

Trade union organizations

70. Their situation is similar to that of NGOs and many of their leaders have been arrested.

8. Freedom of assembly

71. The exercise of this right has been suppressed. The mere act of an opposition political party carrying the national flag or jeering at the Head of State has resulted in many arrests. The events that took place when the National Campaign for Lasting Peace in the Democratic Republic of the Congo organized a public peace demonstration are an example of the fragility of this right. The demonstration was first banned and then given the go-ahead, but it was taken over by the Government, which turned it into a demonstration of support. The chairman of the organizing committee was prevented from making a speech and the Minister of the Interior made one instead.

9. Right to a nationality

72. Nationality legislation under Mobutu, which left thousands of individuals of Rwandan origin stateless and in part caused the rebellion that overthrew him, has not been improved by the new provisions of Decree-Law No. 197 of 29 January 1999, which reiterates the exclusivity of Congolese nationality (art. 1). The Peace Agreements (para. 16) provide a solution, but it is one that could be resisted by ethnic groups considered indigenous.

10. Economic, social and cultural rights

73. Economic, social and cultural rights have been seriously affected by the war, both because the war consumes the Government's entire revenue and because the free movement of goods is prevented by the hostilities. According to reports, 80 per cent of budget allocations are directly or indirectly related to the war. In January, a decree-law (No. 177) prohibiting all foreign-currency transactions did not succeed in lowering prices; on the contrary, it led to an increase in transport costs and in the price of many commodities. In September, trade in foreign currency was restricted to the Central Bank and the possession of foreign exchange by foreigners was declared an offence; this measure led to more large price rises. Serious everyday problems in such areas as housing, health and education have not been addressed. The current rate of inflation is extremely high. Civil servants' salaries are very low and, despite all announcements to the contrary, have not been paid for several months.

Health

74. The Democratic Republic of the Congo accounts for 65 per cent of all tuberculosis cases in Central Africa (54,575 cases). In March, a poliomyelitis epidemic broke out in Equateur province, affecting about 100 people. In Bandundu, six people died of meningitis during a nine-day period in March. Health conditions have been seriously affected by the war. There is an alarming degree of malnutrition: there are areas where 80 per cent of the population

are affected and in Kinshasa the percentage of malnourished people has risen in one year from 6.2 to 9.8 per cent. There are 100,000 more children suffering from malnutrition in the country today than there were before the war. The prices of medicines have risen considerably. Some families eat once a day or once every two or three days.

Education

75. Because of the war, no measures have been taken to guarantee the exercise of this right. Many parents are not sending their children to school because they cannot afford the school fees.

11. Situation of women

76. As in traditional practices, under civil legislation (which follows the Western Napoleonic tradition), married women have virtually no legal capacity: in order to conclude legal instruments or contracts, a married woman must obtain her husband's consent, without which those instruments are invalid (art. 217); if a father and mother disagree in matters of parental authority, the father's wishes prevail (art. 317); and a married woman requires her husband's permission to contract civil obligations, without prejudice to her right to petition the courts for annulment of her husband's decision (arts. 448 and 449).

77. Many reports confirm that rape, even of girls, still occurs in prisons and during military operations. Women seeking to leave the country are subjected to gruelling humiliation.

12. Situation of children

78. While the use of children in warfare is less frequent than in RCD-controlled territory, some 6,000 children are in military service. In Katanga, the Government has been recruiting youngsters, mostly Balubakat, since January, for the Congolese Armed Forces (FAC) and GSSP in particular. They have been given weapons to defend the civilian population and have received some rudimentary training, with the predictable result that they have begun looting. However, recruitment is not the only way in which children's rights have been affected: the war has led many to drop out of school. In May, the Government established the National Children's Council, which involves members of the community and school representatives, among others, in monitoring the implementation of the Convention on the Rights of the Child. The Council works with NGOs. It is still too early to evaluate its achievements.

79. One initiative that deserves the Special Rapporteur's full support is the organization by the Ministry of Human Rights of a pan-African conference on the demobilization of child soldiers, to be held in December with assistance from the Ministers of Defence, the Interior, Foreign Affairs, and Reconstruction, and with funding from the United Nations Children's Fund (UNICEF). The conference will deal with such issues as disarmament, demobilization and social rehabilitation.

13. Situation of older persons

80. The Special Rapporteur has not been informed of the adoption of any special programmes for older persons during the International Year of Older Persons. Older persons make up 3.5 per cent of the Congolese population and enjoy great respect in Congolese culture and in African culture in general.

B. In the territory controlled by RCD and MLC (annex XIII)

1. Right to life

Death penalty

81. Although the death penalty is permitted under the law, it has not been applied since the beginning of the war. According to the authorities, "in this part of the country, it was applied only by Kabila". During his two visits, the Special Rapporteur spoke with prisoners who had been sentenced to death, but he was assured that their sentences would not be carried out. In February, he met a 15-year-old youth in Goma who had been sentenced to death; the RCD official responsible for foreign affairs acceded to the Special Rapporteur's request for a commutation of the sentence.

Enforced disappearances

82. There have been many reports of the enforced disappearance of detainees, including Congolese and Rwandan Bahutu attempting to leave the territory. The victims include a former Protestant minister and the former Governor of North Kivu. There have been persistent reports that some of those missing have been taken to Uganda or Rwanda.

Death by torture

83. Cases have been reported in various parts of RCD-controlled territory. The most recent concerns the death of the political leader Désiré Lumbu Lumbu on 12 December at the hands of Ugandan soldiers.

Politically motivated murders

84. There are reports that, when RCD forces occupy a city or town, they usually kill their opponents. The Special Rapporteur has been informed of the murder of two priests, at least one of whom had been highly critical of abuses by the rebels; of a haulage contractor working for a church in Uvira; of an individual killed in Bukavu on 24 February; of a young man in Mpenekusu (Shabunda) who died when his heart was cut out; and of many people in Bushaku who were murdered by rebel soldiers for being, or on suspicion of being, opponents.

2. Right to physical and psychological integrity

Torture

85. RCD soldiers and members of the security forces have been accused of torture. The compound known as Bureau 2 is most often mentioned, but reports stress that there are other, unknown, punishment cells, including one known as *chien méchant* ("vicious dog"). The victims are primarily individuals suspected of being Interahamwe or Mai-Mai. There are reports that women in detention centres are often raped, although there were fewer allegations of such cases during the Special Rapporteur's second visit.

3. Right to liberty of person

86. Anyone who expresses opposition to what the people call the "occupation" or "aggression" is arrested. The use of the terms "Rwandan army" or "foreign army" is prohibited. Human rights advocates and journalists are the worst affected. In the Bukavu jail, the Special Rapporteur met with journalists who had exercised their legitimate right to present their reports on the radio. The accusations tend to confuse any form of political criticism with ethnic hatred and genocide.

87. The jails, including those in the territory governed from Kinshasa, are visited by representatives of ICRC, which provides food and health care. Adult and juvenile prisoners are not separated and soldiers are incarcerated together with civilians, a fact which the latter perceive as a serious threat. The Special Rapporteur visited the central prison in Goma in February and the one in Bukavu in September (27 imprisoned soldiers were released the day before the Special Rapporteur's visit to Bukavu). While there had been a visible attempt in the first to improve on the state it had been in some years previously (the Special Rapporteur visited it in 1994, when many of the buildings literally had no roofs), the same could not be said of the second. In Goma, the Special Rapporteur also saw Bureau 2, identified as a torture centre by every source, but it was clear that on the day of his visit there were fewer prisoners than usual.

88. In Beni, in the former premises of a factory known as ENRA, there are cells called *Mabusu* ("cells you never leave") in which atrocities are committed; political prisoners have received up to 200 lashes a day inside them. Another place used for torture in Beni is known as "Bureau 10".

4. Freedom of movement

89. The right to freedom of movement of traditional local leaders is violated in two ways. First, those invited by the Kinshasa Government to participate in the national debate are forbidden to leave the region. Second, Congolese and Rwandan Bahutu citizens are forcibly deported to Rwanda and Uganda. Although the RCD authorities deny this accusation, the Special Rapporteur has sufficient grounds to make this assertion. The International Committee of the Red Cross has undertaken to mount an operation similar to the one that allowed it to evacuate persons of Tutsi origin who were at risk in Kinshasa and Katanga, in order to assist in the return of Congolese citizens arbitrarily deported to Rwanda and Uganda. The most serious aspect of the problem is that all traces have been lost of some of those who were deported.

5. Freedom of expression

90. According to the Chief of the Department of Justice, there are no private radio stations in Goma, although there are some in Bukavu and Kisangani. There are some privately run newspapers, which do not have a large circulation. The Goma newspaper *La Croissance plus* was closed down for incitement to hatred. In Bukavu, a publication of the Groupe Jérémie was also closed down for printing a leaflet on the Day of the African Child, which the Special Rapporteur was told was an incitement to ethnic hatred. The Special Rapporteur has read the leaflet carefully and found absolutely nothing that could be interpreted as incitement to ethnic hatred. Another publication, *La Clé de Geapo*, has also been suspended. In July, the Governor of South Kivu suspended publication of all privately run newspapers, including those published by NGOs. As in Kinshasa, all these measures were taken on the basis of legislation enacted during the Mobutu era.

91. On 23 March, the Governor of South Kivu subpoenaed representatives of two radio stations, Radio Maendeleo and Radio Kahuzi, and of the NGO *Héritiers de la justice*, in order to make it clear that there were guidelines that must be followed. Later, by order of the Chief of the Department of Information, the Governor instructed all newspapers and other publications to "put themselves in order" - an allusion to the political content that it attributed to certain articles. Moreover, Radio Maendeleo (a privately run radio station) was forbidden to broadcast any news and was permitted only to repeat the news programmes of the National Radio and Television Corporation (RTNC), which is controlled by the rebel forces in the region. In March, a member of the military was appointed to act as a full-time censor of the radio station. Finally, on 30 July, the station was suspended, according to the Chief of the Department of Information, because of a conflict between the owner and the broadcasters. What he omitted to say was that the owner is a State body, the Higher Institute of Rural Development (ISDR). Two communications experts were arrested on 25 August and a third on 27 August, on charges of knowing the frequency of the army's radio transmissions. They had the frequency only in order to request assistance if necessary, but they had never used it. The charges, which were completely groundless, were that they planned to use the frequency to provide information to the enemy (they were released on 8 September).

92. Dissidence in public places is prohibited. However, calls for action against the Mai-Mai and the Interahamwe in French and Swahili-language broadcasts on the State-owned RTNC (in the programmes *Politique* and *Makala ya siasa*) are far more virulent and constitute greater incitement to hatred.

6. Right to due process

93. RCD has established an operational court martial to try soldiers charged with robbery or insubordination. It is similar to the Military Court, but has dual jurisdiction. The Special Rapporteur met with two people sentenced to death in first instance: one could provide little information since he did not speak French; the other, a soldier sentenced for embezzlement, said that he had been tried and sentenced 18 days after his arrest "without any evidence being produced", that he had not been allowed to choose his own lawyer and that he had not met the lawyer assigned to him until the day of the trial and had spoken only briefly with him. An

appeal is pending against the sentence, but it is clear that the death penalty is not carried out in RCD territory. According to lawyers in Bukavu, trials are secret and there is no access to them.

Impunity

94. Defence lawyers explained to the Special Rapporteur that "in general, soldiers are not tried for war crimes or human rights violations because they are needed in wartime". Soldiers are arrested only for ordinary crimes or for military offences.

95. Judges' salaries have not been paid since 1996; they range between US$ 3 and US$ 30 a month.

7. Freedom of association

Human rights organizations

96. RCD is openly hostile to NGOs. In its response to the Special Rapporteur's oral presentation to the Commission on Human Rights, RCD claims that, with the support of international financial assistance agencies, civil society in Bukavu "has become more of a political society or, more exactly, a grouping of extremist political parties". According to the Governor, financing from the Réseau européen pour le Congo (REC), the Netherlands Organization for International Development Cooperation (NOVIB) and the National Centre for Overseas Development (NCOD) is "for the secret services in the Congo [an allusion to the Kinshasa regime] transformed into non-governmental development organizations (NGDOs)".

97. Various human rights activists were persecuted for meeting with the Special Rapporteur and have had to seek asylum in Kampala. Some were accused of transmitting reports to the Special Rapporteur. The Special Rapporteur considered the situation so serious that he made a special trip from Kinshasa to Kampala to meet with them. The Chief of the Department of Justice considered that it was a question of persons seeking asylum. The Special Rapporteur has known these persons for many years and can attest to their commitment to human rights and lack of ulterior motives. The reality of their persecution is demonstrated by the revealing fact that no more than six NGOs attended the meeting with the Special Rapporteur in September, as compared to about 20 in February and some 30 in Bukavu.

98. The situation is identical in Kisangani and Kindu and members of the Lotus Group were threatened and accused of transmitting reports and statements to the Office of the United Nations High Commissioner for Human Rights.

99. Distrust of any form of organization has become so extreme that government authorization is required to set up a cooperative, although there is no legal basis for this requirement.

8. Freedom of assembly

100. Public meetings are prohibited and even some that were authorized were later suspended (for example, International Women's Day).

9. Economic, social and cultural rights

Health

101. RCD has not taken measures to ensure effective enjoyment of these rights since, as in the west, the war effort consumes all income. In addition, a lot of hospital equipment has been taken to Rwanda and Uganda and the region's wealth has also benefited those countries more than its rightful owner. According to a reliable report by a humanitarian organization, the incidence of malaria is at 1930s levels. In Kisangani, 13 per cent of the population were suffering from malnutrition and 9.3 per cent were seriously undernourished. The infant mortality rate is more than 2.2 times the rate for Africa as a whole. There are many regions where malnutrition has reached 80 per cent. An aircraft chartered by the Office of the United Nations High Commissioner for Refugees (UNHCR) to carry out a poliomyelitis immunization campaign was unduly held up in Goma, even though it was subsequently permitted to continue. In any case, not all children were immunized, as they had been in the west.

102. There have been epidemics of poliomyelitis in Walikale, smallpox in Katana, Marburg virus in Durba and cholera in Kisangani (150 cases), Lubungo (139) and Mweso. The delivery of humanitarian aid has sometimes been hindered. In November, there was an epidemic of haemorrhagic fever that was linked to the presence of the Marburg virus in the region between November 1998 and May 1999.

Education

103. In Kisangani, schools are open only a few days a week, while others have been closed. School enrolment has declined to alarming levels and, since students cannot be reunited with their families, some have ended up by joining the army. This has led to the phenomenon of "children without papers", since studies in the RCD-controlled territory cannot be validated in Kinshasa, even though UNICEF has obtained permission to have them validated.[7]

Payment of salaries

104. Judges who were interviewed reported that civil servants had not been paid since the beginning of the war with AFDL.

10. Situation of women

105. There have been numerous reports that HIV-infected foreign troops are being used to infect Congolese women. However, such reports cannot be verified.

11. Situation of children

106. The most worrying situation is that of child soldiers, whose number has not decreased. The Special Rapporteur has received reports that children aged between 9 and 13 have been recruited by the Rwandan Patriotic Army (APR) and used as human shields and that about 300 have been recruited in Congolese territory since 22 October and sent to Kigali to be trained for

war and for "ideological education". Unfortunately, RCD, citing reasons of security, is not prepared to participate in the pan-African conference on demobilization organized by Kinshasa that is due to be held in the third week of December.

107. There are many street children owing to the death of their parents during the war or in the massacres that have occurred in many villages. In South Kivu, 1,324 unaccompanied children whose parents were killed in massacres in the region have been registered. At least 13 of these survivors died as a result of neglect. It was reported that there are 400 children in Kisangani in danger of dying from malnutrition and lack of medical care.

V. VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

A. By the Kinshasa Government

108. The principal violations of the law on armed conflicts by the forces of the Kinshasa regime and their allies were as follows:

Attacks on the civilian population

109. Especially the bombing of Kisangani and pillaging in the city in January (17 dead); the bombing of Zongo (120), Libenge (200), Goma (between 30 and 65 dead) and Uvira (3) in May; and the atrocities perpetrated by Chadian soldiers in Bunga and Gemena. In addition, the Zimbabwean army's bombing of rebel-occupied towns claimed many victims.

Murders in the north-east

110. In Mobe, some 300 civilians were killed, apparently during an unsuccessful search for rebels (second week of January 1999).

Sexual violence against women

111. While many general charges have been made, the most specific information relates to the flight of FAC soldiers from Equateur at the beginning of the year, when, in addition to committing robberies, they raped women.

B. By RCD and MLC forces

Attacks on the civilian population

112. The cruellest and most violent actions, committed without heed for the laws of war, were attacks on the civilian population, as reprisals for acts committed by Mai-Mai in Chipaho and Lemera (3 and 4 December 1998, around 70 dead); Makobola (end of 1998 and beginning of 1999, up to 800 or more dead according to some sources); Burhale and Musinga (12 January, 12 dead); Bashali (14 January, many Bahutu refugees killed); Lukweti, South Kivu (25 February, 45 dead); Budaha, South Kivu (17 March); Walungu, Mwenga (19-21 March); Mikondero (15 February, around 100 dead, including in the towns of Kyondo, Beni, North Kivu); Kamituga (around 100 dead between 14 and 17 March, in the towns of Kutunda,

Kenge, Lubila, Kabukungu); Budaha, Burhinyi, Ngweshe, Kigulube (31 May, around 90 dead, according to the sources); Kibizi, Buyankiri (similar incidents throughout the year, of varying intensity); Kasala (Katanga) (45 dead, many of them burned alive, on 28 July); Kalambi (Menga, 30 September); Kahungwe (23 October, around 100 dead); Kashambi (61 dead, on 31 October); Kalami (October); and Chifunze (South Kivu, over 60 dead). Many of these massacres were carried out using machetes, knives or guns, and houses were usually set on fire at the same time. RCD claims that these incidents were provoked by the Interahamwe or the Mai-Mai, but these groups have no reason to commit massacres against the Congolese population or Hutu refugees, who account for most of the victims. These incidents - like those in Kasika (1998) and Makobola - were denied by RCD, before finally being acknowledged as unfortunate mistakes. That is how they were described by both the Head of the Department of Security and Information, Bizima Karaha, and the Head of the Department of Justice, Institutional Reform and Human Rights, Jean Marie Emungu, in a report sent to the Governor of South Kivu. A feature common to all these incidents is the attempt to cover up all traces immediately. Ugandan troops carried out similar massacres in Beni on 14 November, with an unconfirmed death toll of 60 civilians.[8]

113. The attacks on the defenceless civilian population during the dispute between Ugandan and Rwandan soldiers in Kisangani in August, which claimed 30 civilian lives, and later attacks on Beni and Rutshuru were also a violation of the rules of international humanitarian law.

Arson and destruction

114. In incidents mostly, though not always, unconnected to the massacres, RCD forces have set fire to and destroyed many villages.

Deportations

115. Mai-Mai and other persons have been arrested during military operations and transported to Rwanda and Uganda, where they usually disappear without a trace.

Mutilation

116. The Special Rapporteur received many reports of mutilation and, in at least one case, was able to verify it. During his mission in February, he met an 18-year-old man, arrested along with another young man by Rwandan soldiers in a village in South Kivu on suspicion of collaborating with the Mai-Mai. The first man's genitals were cut off completely and he was abandoned in the jungle, from where he was later rescued, although he was left with irreparable physical damage. His comrade died when his heart was torn out.

Rape of women as a means of warfare

117. The Special Rapporteur received reports of rapes of women in Kabamba, Katana, Lwege, Karinsimbi and Kalehe. There were also reports of women being raped by Ugandan soldiers in towns in Orientale province.

VI. CONCLUSIONS

A. The armed conflict

118. Since 2 August 1998, the eastern part of the Democratic Republic of the Congo has been living through a war started by a movement known as the Congolese Rally for Democracy (RCD), which subsequently split in two and is supported by the armies of Rwanda, Uganda and Burundi (countries the Security Council calls "uninvited"). A new rebel movement, the Movement for the Liberation of the Congo (MLC), was formed later on. Faced with this situation, the Government of the Democratic Republic had to request help, in accordance with Article 51 of the Charter, from the armies of five other countries: Zimbabwe, Chad, the Sudan, Angola and Namibia. The presence of these armies, in addition to the involvement of various militias, i.e. the Interahamwe, the Mai Mai, the former Rwandan Armed Forces (FAR), the Front pour la Défense de la Démocratie (FDD) and the Lord's Resistance Army, has created a climate of great insecurity. Conflicts which should be characterized as international are thus going on in the country at the same time as others which are internal in nature. The parties have all committed serious violations of international humanitarian law, such as murders and attacks on the civilian population, including the rape of non-combatant women.

B. Violations of international humanitarian law committed by Government forces

119. The most serious acts have been the bombing of civilian populations by the Congolese Armed Forces and its Zimbabwean and Chadian allies (Kisangani, Gemena, Zongo, Libenge, Goma, Bunga) and reprisals against the civilian population in Bunga and Gemena.

C. Violations of international humanitarian law committed by the rebel forces allied with the uninvited countries

120. In reprisal for attacks on those the Congolese population calls "aggressors" and "Rwandan soldiers", RCD forces have retaliated by massacring defenceless civilian populations with machetes, knives and guns, causing thousands of victims, most notoriously in Chipaho, Lemera, Makobola, Burhale, Musinga, Bashali, Lukweti, Budaha, Walungu, Mwenga, Mikondero, Kamituga, Budaha, Burhinyi, Ngweshe, Kigulube, Kibizi, Buyankiri, Kasala, Kalambi, Kahungwe, Kashambi, Kalami and Chifunze.

D. Human rights violations attributed to the Kinshasa Government

121. The continued application of the death penalty, which President Kabila justifies by the need to guarantee the population's security, even though he describes himself as abolitionist, the existence of a Military Court (COM) which does not guarantee the rights of the accused, continuous attacks on the independent press (the arrest of journalists, raids on printers, summonses, the use of Mobutu-era freedom-killing legislation), the systematic use of torture, and the practice of enforced disappearance and summary executions appear to be the most serious violations. On the positive side, the Minister of Human Rights has tried to make improvements in some specific areas and a solution was found for "persons at risk" (those of Tutsi appearance, who had to be protected to prevent reprisals by the population), a national

human rights plan of action has been prepared with the participation of the main human rights organizations; and, in November, the Office of the High Commissioner for Human Rights was authorized to visit detention centres.

E. Human rights violations in RCD-controlled territory

122. The most striking thing in the territory occupied by the "rebel or aggressor" forces is the prevailing atmosphere of terror and an increasingly stronger feeling of rejection of those in power. The people of the area feel humiliated. The right to life is constantly being violated, but so are all the public liberties, such as the right to freedom of association, assembly, expression and opinion. There are no independent news media and the few that did exist, such as Radio Maendeleo, were banned. Any dissent or opposition is presented as "attempted genocide". The deportation of prisoners to Rwanda and Uganda is a particularly serious matter. It is also symptomatic that the latest RCD/Goma structural adjustment eliminated all public human rights organizations. The one positive aspect is that the death penalty, which is provided for by law, is not being applied.

F. The situation of human rights advocates

123. In the two parts into which the country is divided, the situation of human rights advocates is particularly serious. The annexes contain several specific examples of violations of their rights to freedom of association, expression and assembly, as well as of their rights to life, physical integrity and liberty of person. In the opinion of President Kabila, NGOs should be regarded as "political parties". For the Governor of South Kivu, civil society is a grouping of extremist political parties funded by the Kinshasa secret services.

G. The right to democracy in Government-controlled territory

124. An analysis of Commission on Human Rights resolution 1999/57 of 27 April 1999 on the promotion of the right to democracy, whose existence the Special Rapporteur has supported in all his reports since 1994, shows not only that this right does not exist in the Democratic Republic of the Congo, but that nothing has been done to guarantee it.

125. The rights to freedom of opinion and expression, thought, conscience and association and assembly are being violated and only the right to freedom of religion may be considered to be applicable. Political parties are banned (unless they are in conformity with a new law which does not meet democratic requirements) and, in their place, People's Power Committees (CPPs) have been systematically set up with State funding and ideological support; they are no more than an extension of the State itself for the implementation of its policies and they have also been authorized to organize armed neighbourhood militias known as People's Self-Defence Forces (FAPs).

126. The human right to receive and impart information and ideas is being violated and is subject to harsh penalties of arrest, trial (even by the Military Court), prohibition on leaving the country and torture.

127. The rule of law is applicable only to private individuals, not to the Head of State, who has arrogated to himself the most absolute discretionary powers, in accordance with Decree-Law No. 3 of 1997, which concentrates all executive and legislative powers and the majority of judicial powers in his hands. There are no effective remedies for the protection of the fundamental freedoms and security of citizens.

128. The right to vote has not been restored and nothing has come of any of the announcements made, even before the attack of 2 August 1998 in the eastern part of the country.

129. The right to political participation on terms of equality has also not been restored. According to the new law on political parties, only those which are authorized by the Ministry of the Interior may take part in politics. In the "national debate" called for by the Government, only the issues proposed by the President may be discussed.

130. The Government continues to have a stranglehold on government institutions. Even ministers of State, judges, soldiers of all ranks and senior public officials have been sent to prison, often without trial, thus showing that power is being exercised non-transparently, with the most absolute impunity.

131. The Congolese people does not enjoy the right to choose its system of government and the "national debate" proclaimed by the President is restricted to the issues he proposes.

132. The right of citizens to have access, on terms of equality, to public service is not recognized.

H. The right to democracy under RCD

133. In RCD-controlled territory, there are no parties, no freedom of expression, information, association, assembly or political participation and no right to vote. People do not even have the right to criticize what they see as "foreign aggression and occupation". Only RCD is authorized and it is effectively a party-State. The population has endured terrible political humiliations, such as the changing of the flag without consultation and the declaration of the "twinning" of the Rwandan capital, Kigali, and the territory of South Kivu, which is even seeking autonomy for itself.

I. The Lusaka Peace Agreement

134. Following many attempts at peace, the Lusaka Peace Agreement was signed on 10 July, but signed by RCD only on 31 August. It contains both military and political agreements and provides for observer participation by countries (Zambia) and organizations (OAU and the United Nations). The Ceasefire Agreements have not been observed, since fighting and troop mobilizations have continued, the militias have not been disarmed and the massacres have gone on. Worse still, the parties have continued to use warlike language, in increasingly louder tones every day, thereby undermining the participation of the so-called "international community", which, apart from civil society in the two parts of the territory, so far appears to be the only one interested in the Agreement's success. Since the date of signing, however, there have been no major changes in territorial positions.

135. The political commitments provided for in the Agreement have also not been implemented: the facilitator for the Congolese components of the Agreement has not yet been appointed and President Kabila's Government refuses to hold an all-inclusive "national dialogue" (inter-Congolese political negotiations) on the future of the country with the participation of widely recognized political parties and civil society, preferring instead a "national debate" limited to the issues it is prepared to discuss.

136. None of the agreements provided for in the Lusaka Agreement was implemented within the time limits set and most of them have still not been implemented.

137. The joint mission to investigate violations of human rights and international humanitarian law committed during the 1996-1997 war has still not been able to begin its activities, as the Commission on Human Rights requested, because the required security measures have not been taken.

VII. RECOMMENDATIONS

A. Respect for the peace process

138. The parties involved must fully implement the Peace Agreement, both in its military aspects (halt to warlike language; disarming of militias; withdrawal of all foreign troops, whether invited or "uninvited"; respect for the inviolability of borders; a proper ceasefire; and security for movements of United Nations and OAU observer and auxiliary staff; etc.) and in its political aspects.

139. With regard to the political agreements, the appointment of a facilitator cannot continue to be put off, especially as the Special Rapporteur found that there was broad consensus on the San Egidio community, which meets all the requirements of recognized moral and intellectual standing, credibility and experience provided for in the Agreement.

B. Democracy

140. The restoration of democracy is essential and urgent. To this end, the political parties and NGOs organized in accordance with the law in force at the time of their establishment must be respected and must take part in any serious process of reconciliation and democratization. Democracy is built by peoples or by no one.

141. In the east, RCD must accept the fact that it is not popular with the Congolese people and must allow organizations in which the people is represented to operate. It cannot continue seeing every opponent as a perpetrator of genocide or as an instigator of ethnic hatred. It cannot go on adopting measures which anger the population, such as the twinning of Kigali and South Kivu and the change of flag.

142. Human rights, especially liberty of person and the freedoms of expression, opinion and association, must be restored in the two parts into which the war has divided the territory, since their enjoyment today seems more like a concession from the authorities than an enforceable

right. The Congolese people does not enjoy the right to be informed. Particular attention must be paid to the situation of women and to respect for the rights of children, especially by putting an end to the recruitment of children for the armed conflict.

143. Human rights advocates and their organizations must be fully supported in their activities and not persecuted as they are today, both in the east and in the west of the country.

144. The human right to justice must be respected, both in the hearing of criminal accusations and in transparent trials of violators of human rights and international humanitarian law, as this is the only way of putting a stop to the immorality of impunity. There is no room in this regard for any amnesty. It is particularly essential that there should be an investigation of allegations of the use of HIV-positive soldiers as a means of decimating the civilian population. Both the Military Court in Government-controlled territory and the Operational Court Martial in RCD-controlled territories must be removed, as unanimously recommended at a seminar on the administration of justice and human rights in the Democratic Republic of the Congo.

145. The valuable work of the Ministry of Human Rights must be supported by being given all the authority and material and financial resources it needs to help put an end to human rights violations and establish the rule of law to guarantee respect for fundamental freedoms.

146. The death penalty must be abolished in Government-controlled territory and the policy of not applying it in RCD territory must be maintained. President Kabila's arguments for maintaining it are not convincing, especially if he claims to be abolitionist. In any case, the Military Court's method of conducting trials genuinely undermines the rule of law, as recognized at a successful seminar held in late August in Kinshasa with the assistance of the Office of the High Commissioner for Human Rights and the participation of the entire legal community. Priority must be given to the ratification of Protocols I and II Additional to the Geneva Conventions of 24 August 1949, as announced one year ago. At the same time, international human rights agreements should be fully enforceable within the country.

147. In both parts of the territory, it is essential to put an end to the discretional authority, impunity and arbitrariness of the so-called "security forces", which, to the population, mean the exact opposite of what their name indicates.

148. The Special Rapporteur believes that the peacekeeping mission provided for in the Lusaka Agreement should not confirm the partition of the Democratic Republic of the Congo, but should be deployed along the country's northern and eastern borders.

149. The joint mission called for by the Commission on Human Rights in its resolution 1999/56 of 27 April 1999 will be established as soon as security conditions permit, as stipulated in the resolution. It should have the broadest possible support, both from the Government of Kinshasa and from the other States, armies and military groups which were involved in the incidents that took place in the territory of the former Zaire in 1996 and 1997.

150. The Special Rapporteur unconditionally recommends the suspension of military assistance to all parties to the conflict. The European Parliament's agreement in early December

to establish an international arms embargo throughout the Great Lakes region and to appeal to the Security Council for respect for undertakings to control the arms traffic in the region indicates the policy to be followed.

151. The end of the recruitment of children cannot be delayed. The initiative of the Government of the Democratic Republic of the Congo to convene a pan-African conference for this purpose should be supported and, above all, this scourge should not be allowed to continue.

Notes

[1] Whenever a date is given without a year, the year is assumed to be 1999.

[2] In support of the text, annex XII contains examples of human rights violations, classified according to the right violated and, where there is more than one, according to the one which seems to be the most relevant. In any case, the same description indicates violations of other rights. Information on cases (annex XIII) in the occupied area is less reliable.

[3] The report does not, of course, cover purely military aspects.

[4] The Mai-Mai are former guerrilla fighters of the time of Pierre Mulele, a companion of Patrice Lumumba. They have no ideology; they sided with the Interahamwe against the invaders, but, when Kabila appointed Banande and Banianga to representative posts, they chose him over Mobutu. Later, however, they fought the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), which they identified with the Rwandan Batutsi. Since the war which began on 2 August 1998, they have been connected with the FAC, which one of their commanders has joined.

[5] Conclusions of the seminar on "Administration of Justice and Human Rights", organized jointly by the Ministries of Human Rights and Justice, the United Nations Development Programme and the Office of the High Commissioner for Human Rights.

[6] See note 5. Statement by Akele Adau, professor of law.

[7] The Special Rapporteur took advantage of his trip from Goma to Kinshasa during his second mission to bring copies of the 1998 examinations taken by the South Kivu candidates back for correction.

[8] In general, the figures are not reliable and vary within a range of up to 200 per cent. The most generalized figures, or those from more reliable sources, have been used.

Annex I

[Original: French]

Previous resolutions and reports of the General Assembly and the Commission on Human Rights

Previous resolutions of the Commission on Human Rights
1994/87, 1995/69, 1996/77, 1997/58, 1998/61, 1999/56.

Previous resolutions of the General Assembly
53/160, 54/179.

Previous reports submitted to the General Assembly
A/52/496, A/53/365, A/54/361.

Previous reports submitted to the Commission on Human Rights
E/CN.4/1995/67, E/CN.4/1996/66, E/CN.4/1997/6 and Add.1 and 2, E/CN.4/1998/65, E/CN.4/1999/31.

Annex II

Officials of the Government of the Democratic Republic of the Congo with whom the Special Rapporteur met

February visit

Minister of the Interior
Deputy Minister of Local Government
Minister of Justice
Deputy Minister of Defence
Deputy Minister for Foreign Affairs
Minister of Human Rights (twice)
Attorney-General of the Republic
President, Prosecutor and members of the Military Court
Governor of Lubumbashi
People's Power Committees

August-September visit

Mr. Laurent-Désiré Kabila, President of the Republic
Minister of Human Rights
Minister of Information and Tourism
Minister of Social Affairs
Deputy Minister for Foreign Affairs
Prosecutor and President of the Military Court
Vice-Chairman of the Preparatory Committee for the National Debate, and members of the Committee

Annex III

Officials of the Rassemblement congolais pour la démocratie with whom the Special Rapporteur met

February visit

All members of the Political Council of the Rassemblement congolais pour la démocratie

August-September visit

Chief of the Department of Justice, Institutional Reform and Human Rights
Chief of the Department of Internal Affairs and Local Government
Governor of South Kivu province
Director of Bukavu Prison
Civilian and military judges

Annex IV

Other institutions, churches, judges, public organizations, non-governmental organizations and political parties met in territory controlled by the Kinshasa authorities

Representatives of labour organizations
Former and current judges
Representatives of the Protestant, Kimbanguist, Orthodox and Muslim communities
Political leaders imprisoned in Kinshasa and Lubumbashi

Political parties

Union for Democracy and Social Progress (UDPS) (twice)
Unified Lumumbist Party (PALU) (twice)
People's Movement for the Revolution (MPR) (twice)
Forces novatrices pour l'union et la solidarité (FONUS) (twice)
Forces du futur (twice)
Union socialiste congolaise, part of Force politique de l'opposition intérieure
Démocratie chrétienne (emerged from the National Sovereign Conference)
Front pour la survie de la démocratie (established 10 June 1997)
Mouvement national congolais/Lumumba
Mouvement national congolais

Non-governmental organizations[a]

Groupe de réflection de l'Association culturelle Nande/Kyaghanda
Association culturelle Lori
ASLB Liberté
Amnistie-Congo
Cause Commune
Conseil de la campagne nationale pour la paix durable en République démocratique du Congo
Union nationale des Femmes (UNAF)
Association de professionnelles africaines de la communication (APAC)
Association nationale pour la défense des droits des migrants et de la femme
Conseil national des droits de l'homme en Islam (CONADHI)
Les Amis de Nelson Mandela
Comité pour la démocratie et les droits de l'homme
Voix des handicapés pour les droits de l'homme
Toges noires
Comité des droits de l'homme maintenant
Ligue nationale pour les élections libres et transparentes (LINELIT)
Voix des sans-voix pour les droits de l'homme
Oeuvres sociales pour le développement
Centre africain de recherche industrielle (CARI), Branche droits de l'homme, éthique et bonne gouvernance
Avocats sans frontières (ASF)
Ligue de conscientisation des électeurs (LICE)

Association nationale de détectives experts du Congo (ANADECO)
Structure de culture, d'éducation populaire et des droits de l'homme (SCEPHO)
Ligue des électeurs
Journalistes en danger
Association des femmes magistrats (AFNAC)
Association africaine de défense des droits de l'homme (ASADHO)

International non-governmental organizations

Amnesty International
Human Rights Watch
International Crisis Group

Notes

[a] Some were not interviewed, but submitted or passed on reports, communiqués or other documents

Annex V

Other institutions, churches, judges, public organizations, non-governmental organizations and political parties met in territory controlled by the authorities of the Rassemblement congolais pour la démocratie

There are no political parties.

For security reasons, the non-governmental organizations in the provinces of North Kivu and South Kivu that contacted the Special Rapporteur are not listed.

Annex VI

Places visited by the Special Rapporteur

In Government-controlled territory

February visit

Prisons

Kinshasa (formerly Makala) Prison and Rehabilitation Centre
Kasapa Prison and Rehabilitation Centre (Lubumbashi)
National Information Agency prison (Lubumbashi)
Litho-Moboti Group (GLM) building in Kinshasa (under the supervision of the Special Presidential Security Group)

Centres holding persons deprived of their liberty owing to the risks they face as members of ethnic groups considered as enemies by the people

National Social Security Institute in Kinshasa
Former Batika convent in Lubumbashi

Camps for persons displaced by war

Former Kamalondo Home for the Blind in Lubumbashi

August-September visit

Cachot of the Military Court Prosecutor
Cachot of the National Information Agency prison (ANR/3Z)

In territory controlled by the authorities of the Rassemblement congolais pour la démocratie

February visit

Goma Central Prison Military Intelligence Service detention centre (Bureau 2)

August-September visit

Bukavu Central Prison

Annex VII

International instruments to which the Democratic Republic of the Congo is a party

International Covenant on Economic, Social and Cultural Rights
International Covenant on Civil and Political Rights
International Convention on the Elimination of All Forms of Racial Discrimination
International Convention on the Suppression and Punishment of the Crime of Apartheid
Convention on the Prevention and Punishment of the Crime of Genocide
Convention on the Rights of the Child
Convention on the Elimination of All Forms of Discrimination against Women
Convention on the Political Rights of Women
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
Convention relating to the Status of Refugees and Protocol relating to the Status of Refugees
Geneva Conventions of 1949

Annex VIII

Irregular armed groups directly or indirectly involved in the armed conflict in the Democratic Republic of the Congo

1. Rassemblement congolais pour la démocratie (RCD)/Goma
2. Former Rwandan Armed Forces (ex-FAR)*
3. *Interahamwe**
4. Mouvement de libération du Congo (MLC)
5. National Union for the Total Independence of Angola (UNITA)*
6. Mai-Mai of South Kivu
7. Mai-Mai of North Kivu
8. Front pour la défense de la démocratie (FDD)*
9. Lord's Resistance Army
10. Sudan People's Liberation Army (SPLA)
11. Simba Brigade
12. Union des nationalistes républicains pour la libération (UNAREL)
13. Mouvement pour la sécurité, la paix et le développement (MSPD)
14. Former Ugandan National Army (FUNA)*
15. West Nile Bank Front (WNBF)*
16. National Army for the Liberation of Uganda (NALU) *
17. Allied Democratic Forces (ADF)*
18. Front de libération du Congo
19. Rassemblement congolais pour la démocratie/Mouvement de libération (RCD/ML), also known as RCD/Kisangani and RCD/Bunia

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* Armed groups mentioned in the Lusaka Peace Agreements

Annex IX

Armed conflicts developing in the territory of the Democratic Republic of the Congo

Government of the Democratic Republic of the Congo/Rassemblement congolais pour la démocratie and Mouvement de libération du Congo
Government of Rwanda/former Rwandan Armed Forces and *Interahamwe*
Government of Uganda/various armed opposition groups
Government of the Sudan/various armed opposition groups
Government of Burundi/Front pour la défense de la démocratie
Government of Angola/National Union for the Total Independence of Angola and Cabinda
Government of the Republic of the Congo/various armed opposition groups
Government of Rwanda/Government of Uganda
Tribal conflicts between the Bahema and the Balendu (Irungu and Djugu territories in Orientale province)

Annex X

Main peace initiatives undertaken by the international community since the outbreak of the conflict

1998

8 August: Victoria I (Zimbabwe)
18 August: Victoria II (Zimbabwe)
22 August: Pretoria (South Africa)
2 September: Durban (South Africa)
11 September: Addis Ababa (Ethiopia)
14 September: Grande Baie (Mauritius)
14 September: Visits by the Presidents of Zambia, Rwanda and Uganda
18 October: Nairobi (Kenya)
28 October: Lusaka (Zambia)
20 November: Paris (France), Franco-African Summit
8 December: Lusaka (Zambia)
18 December: Burkina Faso (conference of the Organization of African Unity)
28 December: Lusaka (Zambia)

1999

16 January: Lusaka (Zambia)
18 January: Windhoek (Namibia)
February: Bilateral consultations between various African leaders
28 February: Mission by a representative of the United States to the region
6 March: Pretoria (South Africa)
23 March: Addis Ababa (Ethiopia)
Late March: Kinshasa, visit by the President of Zambia
9 April: Security Council resolution 1234 (1999), appointment of a Special Envoy of the Secretary-General for the peace process in the Democratic Republic of the Congo
17 April: Lusaka (Zambia)
19 April: Sirte (Libyan Arab Jamahiriya)
5 May: Dodoma (United Republic of Tanzania)
15 May: Sirte (Libyan Arab Jamahiriya)
28 May: Kampala (Uganda)
17 June: Pretoria (South Africa)
10 July: Signing of the Lusaka Peace Agreements by the Democratic Republic of the Congo, Rwanda, Uganda, Zimbabwe, Namibia and Angola
1 August: Signing of the Lusaka Agreements by the Mouvement de libération du Congo
31 August: Signing of the Lusaka Agreements by the 50 founding members of the Rassemblement congolais pour la démocratie

Annex XI

Ceasefire implementation timetable

Start date (D): 31 August 1999

Major events of ceasefire	Proposed timetable	Implementation date
1. Official signing of ceasefire agreement	D	Not implemented
2. Announcement and distribution of information about the ceasefire to all parties	D + 24	Not implemented
3. Cessation of hostilities, including hostile propaganda	D + 24	Not implemented
4. Liberation of hostages	D + 3 days	Not implemented
5. Establishment of joint military commission and observer groups	D (zero hour) - D + 7 days	Not implemented
6. Disengagement of forces	D + 14 days	Not implemented
7. Selection of facilitator	D + 15 days	Not implemented
8. Redeployment of parties' forces in conflict zones	D + 15 days - D + 30 days	Not implemented
9. Provision of information to the joint military commission, the Organization of African Unity (OAU) and the United Nations system	D + 21 days	Not implemented
10. Deployment of OAU observers	D + 30 days	Not implemented
11. Liberation and exchange of prisoners	D + 7 days - D + 30 days	Not implemented
12. Start of national dialogue	D + 45 days	Not implemented
13. End of national dialogue	D + 90 days	Not implemented
14. Establishment of new institutions	D + 91 days	Not implemented
15. Deployment of United Nations peacekeeping mission	D + 120 days	*
16. Disarmament of armed groups	D + 30 days - D + 120 days	Not implemented
17. Orderly withdrawal of foreign troops	D + 180 days	*
18. Verification and follow-up	D + 7 days - D + 180 days (renewable)	*

Major events of ceasefire	Proposed timetable	Implementation date
19. Re-establishment of State administrative authority	D + 90 days - D + 270 days	*
20. Disarmament of non-military personnel	D + 360 days	*
21. Steps to normalize the security situation along international borders	D + 30 days - D + 360 days	*

* Since the implementation timetable runs beyond the cut-off date for submission of material for the current report (31 December 1999), no implementation date has been indicated.

Annex XII*

Non-exhaustive list of human rights abuses committed in Government-controlled territories and brought to the Special Rapporteur's attention

I. RIGHT TO LIFE

A. Death penalty

February

Matadi (Bas-Congo province): Askari Ndua-Rekembu, Nsuka Nzita and Makonda Masika, sentenced to death by the Military Court for armed robbery and criminal conspiracy.

March

Kinshasa: Commander Tshibembe Kaholongola, secretary of the Rapid Intervention Police (PIR), sentenced to death by the Military Court.

Kinshasa: Commander Mwandamvila, sentenced to death by the Military Court for desertion in time of war.

April

Mbuji Mayi: execution of 11 civilians (including two women) convicted of armed robbery by the Military Court.

Lubumbashi (Katanga province): execution of 20 soldiers accused of disobeying the orders of their superiors.

May

Execution of 15 police officers in Kinshasa.

Former commander in the Congolese Armed Forces (FAC) sentenced to death by the Military Court.

Matadi: death sentences handed down by the Military Court to 12 persons convicted of treason (Ahundu Monga, Lingomo Mono, Kambale Kihembe, Mbenga Nkole, Mantala Kasongo, Ndenga Nsumbu, Poloni Azumbia, Jean Nzeka, Lukusxa Kabengele, Placide Tshibembe, Bienene Homo and Rukembwa Nduwa).

Kinshasa: execution of 23 persons convicted by the Military Court of various criminal offences.

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* Whenever a date is given without a year, 1999 is meant.

June

Kinshasa: one person sentenced to death by the Military Court.

July

Execution of Mbusa Bihande, formerly chief information officer of the Detection of Unpatriotic Activities Police (DEMIAP), convicted of treason by the Military Court.

October

Gaby Ngimbi Kiamba, Bukassa Musenga, Muzaliwa Maroy, Issa Yuba and Onza Kanda, employees at military fuel depots, sentenced to death for robbery.

November

Officers Mwenda Virumba and Eric Ilunga wa Kwasona, sentenced to death for "military rebellion".

B. Forced disappearances

August 1998

Disappearance of Mulinda Habi Buganza, Joseph and Dada following their arrest by the Rapid Intervention Police (PIR).

Disappearance of Colonel Kajuba Kelenge of the Congolese Armed Forces (FAC) after his arrest.

October 1998

Disappearance of Commander Yves Bangaba of the FAC and his wife Fifi Mwanza Nkuta.

April

Disappearance of Sabereme Coca Virgine, a Rwandan citizen, from Kokolo camp.

May

Disappearance of Jean Nkumu Wangala, a former commander from Matadi, from the cell where he was being held.

July

Disappearance of Kazadi Ntumba Mulongo wa Majinda, editor of Top Media magazine and a journalist working for the Congolese National Radio and Television Corporation (RTNC), following his detention in the National Information Agency prison.

Disappearance of Nganga Banaba and Taty following their arrest by soldiers.

Disappearance in Lubumbashi of Raymond Kabalu, employee of Gécamines and political adviser to Etienne Tshisekedi, following his arrest.

C. Arbitrary deprivation of life by members of the armed forces abusing their impunity

February

Fifteen diamond traffickers, including Lungonzo Mundele and Makambo Dezaf, killed by nine soldiers in Kasai Oriental province.

July

Charles Bokeleale killed in Kinshasa by soldiers intent on stealing his motor vehicle.

May

An individual named Paul killed by soldiers in Kimbanseke commune, Kinshasa.

November

Jean Jacques Kamba killed by soldiers in Kinshasa for breaking the curfew.

An individual named Omalako killed in Kinshasa by soldiers who suspected him of espionage.

Makoko Sims killed in Kinshasa for breaking the curfew.

Tshimanga Martin, army logistics officer, killed by soldiers in Kinshasa.

D. Deaths resulting from ill-treatment

May

Death of Colonel Ndoma Moteke, member of the former Zairian Armed Forces (FAZ), arrested on 14 November with eight other officers at Mbandaka before being transferred to Kinshasa.

July

Death of "Etoile" Nyenyezi, son of a former member of the National Gendarmerie, at Badiadingi camp (Kinshasa), following ill-treatment.

August

Death following ill-treatment of Jean-Pierre Bakali Nkoy at the National Information Agency prison in Kinshasa.

October

Death in detention of Sangu Matembi, United Lumumbist Party (PALU) militant, owing to lack of medical care.

II. RIGHT TO PHYSICAL AND MENTAL INTEGRITY

(Non-fatal torture cases)

December 1988

Ill-treatment of Freddy Loseke, journalist working for Libre Afrique, during his detention at the Litho Moboti Group (GLM) building.

January

Ill-treatment (30 lashes) of Nsikungu Kaluku, professor at the Higher Teaching Institute, charged while in detention of making preparations for an attempt on the life of President Kabila.

Ill-treatment of Rodolphe Hakisa Makombe, an ethnic Tutsi and Congolese citizen, during his detention at the Litho Moboti Group (GLM) building.

May

Ill-treatment (50 blows with a stick) of Bruno Tshauke-we-Tshauke during his detention by the National Police.

Ill-treatment (genital injuries) of Christian Badibangui, President of the Union Socialiste Congolaise (USC), while in the custody of the Detection of Unpatriotic Activities Police (DEMIAP).

Ill-treatment of Astrid Tshibabwa while in the custody of the Detection of Unpatriotic Activities Police (DEMIAP).

Ill-treatment of 11 leaders of the Union for Democracy and Social Progress (UDPS) accused of political activism during their detention at the premises of the Kinshasa Provincial Police Inspectorate (formerly Circo).

June

Ill-treatment (450 blows with a stick) of Joseph Masala and Charles Mouaka, refugees from the Republic of the Congo, accused of secret dealings with the rebellion.

July

Ill-treatment of Pastor Guillaume Mpadi Kimbondo of the Mvuka Ma Bundu church during his detention by the former Circo in Kinshasa.

Ill-treatment of Jean-Philippe Masemo, a young UDPS militant, during his detention in a punishment cell at Ndjili airport.

August

Ill-treatment of Commander Teddy Bilokidi and nine other persons accused of armed robbery.

September

Ill-treatment (57 lashes) of Clovis Kada, editor of L'Alarme magazine and member of the Ligue Nationale pour les élections libres et transparents (LINELIT), while in custody.

October

Ill-treatment of an individual named Tebabome during his detention at the National Information Agency (Foreign) prison.

November

Ill-treatment of Abedi Kamanzi during his detention at Kokolo camp.

Ill-treatment (150 blows with a stick) of Justin Zababe during his detention at Kokolo camp.

III. RIGHT TO LIBERTY OF PERSON

October 1998

Arrest at Matadi and detention in Kinshasa of Joseph Mbakulu Pambu Diana, a journalist working for Madati Radio and Television and regional chairman of the Congo Press Union, accused of complicity with the rebellion.

December 1998

Arrest of Albano Mopipi, Blaise Banzwa and Toussaint Kilunudu, leaders of the Solidarity Trade Union, and their subsequent detention at Kinshasa Prison and Rehabilitation Centre (CPRK) following a visit to imprisoned trade unionists.

Arrest by the Rapid Intervention Police (PIR) of Emmanual Cole, a Liberian citizen and president of the Bill Clinton Peace Foundation, and his subsequent detention at CPRK.

Arrest and detention at the Litho Moboti Group (GLM) building of Professor Bura, principal private secretary at the Ministry of Tourism, accused of complicity with members of the former Zairean Armed Forces (FAZ).

January

Arrest and detention of Wande, Zalanga and Mbela (aged 14) at Yakoma and Wapinga, Equateur province, accused of secret dealings with the enemy.

Arrest and detention of Bienvenu Kasole and Christophe Bintu, members of COJESKI, at Kokolo camp.

Arrest and detention of 28 moneychangers accused of breaching Decree-Law No. 177.

Arrest and detention of the father of exiled General Baramoto, at the National Information Agency prison.

Arrest and detention of André Yoba Mbesi, leader of the Solidarity Trade Union.

Arrest and detention of Bondo Wa Bondo at the Litho Moboti Group (GLM) building.

Arrest and detention of Rodolphe Hakiza, a local official of the United Nations Development Programme (UNDP), at the GLM building.

February

Arrest and detention at the GLM building of Palusi Kabongo, president of the Union des Forces Nouvelles au Zaire de la Luka (UNAFOZ LUKA) and his assistants Boniface Ndonda Lalembe, Nzadi Kabongo, Nunga Luboko, and Nzundu Navisa, where they allegedly received 100 lashes.

Arrest and detention of Joseph Kapika, UDPS spokesman, by the Military Court for making critical remarks about the Political Parties Act on the radio station Voice of America.

Arrest and detention of Floribert Chebeya, president of Voix des Sans-Voix pour les Droits de l'Homme (VSV), after requesting information from DEMIAP about human rights violations.

Arrest and detention at Kokolo camp of Michel Bina, accused of being in contact with former Mobutist leaders in exile.

Arrest and detention of Mbavu, Philomène Mbavu, Beatriz Bianda and Mignonne Mundahu (aged 5), ethnic Tutsis, for complicity with the rebellion.

Arrest and detention of Sylvain Khamani, UDPS leader, and his wife, by officers of the National Information Agency.

Arrest and detention of Placide Mukendi Mpaya, UDPS leader, by officers of the National Information Agency.

Arrest and detention of Father Charles de Sousa for writing an article in a Groupe Amos (human rights NGO) publication calling for a demonstration to commemorate the massacre of 16 February 1992.

Arrest and detention of Jean-Claude Mwambanzani, a UDPS "parlement debout" members at the State Security Court punishment cell.

Arrest and detention of former deputy Brigitte Sakina Lundula by the National Information Agency.

Arrest and detention of Mohamed Kadingi in Katanga province, accused of being a Tutsi.

March

Arrest and detention of Emmanuel Mansitambi Mampasi, accused of being in contact with the rebellion.

Arrest and detention at Lubumbashi of Claude Nsinga Bungiena, Jules Galeke Milongo, François Mbuyu Kyata, Alain Kalala bin Bouaboukae, Simon Onyambuhuto and François Kaluila Mutambayi, all health workers, for having provided "unreliable information" on the situation in the eastern part of the country.

Arrest and detention of Rose Samba Mbala and her two-year-old son for dealings with three North Americans detained in Zimbabwe on a charge of conspiracy to assassinate President Kabila.

Arrest and detention of Modeste Mutinga, editor of the newspaper Le Potentiel, Kabema Mbwebwe, of the Front Patriotique, and Marie Angele Lukiana, of the Union Nationale de Femmes Congolaises, for attending a Congolese civil society meeting in Durban.

Arrest of Bompima Moelo Bokoto, a former employee of the South African Embassy in the Democratic Republic of the Congo, by the Special Presidential Security Group (GSSP), and his subsequent detention at Bulowo prison.

Arrest of Jean-Pierre Mbamba Kumu, an officer of the Inland Revenue Service, and his subsequent detention at Buluwo prison.

Arrest and detention of the former president of the Kinshasa bar, Mbu Ne Latang, at Kokolo camp following the flight into exile of four of his clients.

Arrest and detention of Jean-Pierre Siki Yale by the National Information Agency, owing to the fact that he is a relative of Seyi Yale, formerly President Mobutu's information officer.

Arrest and detention of Commander Makelele Kabunda for having passed a document to the Special Rapporteur.

Arrest of Adonis Bosolo Mundombele, former officer of the National Information Agency, and his subsequent detention at Bulowo prison for no reason.

Arrest and detention of Félicien Tshibangu Kalala, professor of law and attorney, for delivering a lecture during which an anti-Katangan anthem was reportedly sung.

Arrest and detention of Jean Claude Muyambo of the Centre for Human Rights and Humanitarian Law at Lubumbashi.

April

Arrest and detention by DEMIAP of Abel Batekolo, a citizen of the Republic of the Congo, accused of being in league with Ninja militias and assisting the rebellion.

Arrest and detention of Baudoin Hamuli Kabarhuza, executive secretary of the Conseil National des Organisations Non-Gouvernementales de Développement (CNONGD), for attending a civil society meeting in Durban.

Arrest and detention of Youssouf Mwalimu Taminu, a Muslim theologian, by DEMIAP.

Arrest and detention of Kinkela Vi Kansy, a former minister, at Ndjili airport for mismanagement during his tenure in office. Three of his assistants were also arrested and imprisoned in Kinshasa Prison and Rehabilitation Centre (CPRK).

Arrest and detention at Ndjili airport of Chesco Fashingabo Monene, a student, accused of being a Tutsi and collaborating with the rebellion.

Arrest and detention of Mukalay Hanga Kolwa, a trade union leader, for demanding nine months' unpaid salary.

Arrest and detention of Miguel Olavio on account of his mother's political activities.

May

Arrest and detention of a certain Mpoyi, Alidor Mwamba and Odile Kalala for unknown reasons.

Arrest and detention of the lawyer Martin Kasongo Beketi for having worked with Jean-Marie Eley Lofele, also a lawyer, of the NGO Avocats sans frontières.

Arrest and detention of the journalist Freddy Loseke by the Rapid Intervention Police (PIR).

June

Arrest of Michel Gbetoro and Justin Nzoambe, accused of collaborating with exiled Mobutists, and their subsequent detention at Kinshasa Prison and Rehabilitation Centre (CPRK).

Arrest and detention in Equateur province of Gilbert Angumu Lisangi, Adobo Mobudi, Jacques Ndoze Kamba, Kapalo Mbala, Godé Butene Nganga, Edouard Goyo Lekendo and Bernard Seya Kongbama, accused of collaborating with the rebellion.

Arrest and detention by the PIR of traditional chief Kaponda Ina Kiluba Shiouwe II at Mimbulu (Katanga) and his subsequent transfer to Kasapa prison.

Arrest and detention of Hassan Ikolo Bayela, a police intelligence analyst by DEMIAP. His wife was brought in for questioning the following day.

July

Arrest and detention of Nicole Bimbi Sukimi instead of a security officer with whom she had no connection whatsoever.

Arrest and detention of Thérèse Mukeba Tashama, accused of assisting the rebellion.

August

Arrest and detention of Pastor Reverend Kabala Muimba of the Evangelical Mission of the Restoration.

September

Arrest and detention of Jean Jacques Pindu and Ali Amina, employees of Lignes Aériennes Congolaises (LAC), accused of planning to sell President Kabila's flight itineraries to the rebels.

Arrest and detention of Eugène Kabongo Ngoy, a former member of the national football team and the Kasai Youth and Sports Council, accused of dealings with the rebellion.

Arrest and detention of Wetemwani Katembo Merikas, a COJESKI leader, by the Special Presidential Security Group (GSSP) (no reason given).

Arrest and detention of Nkusu Bikawa, president of the Association des anciens parlementaires, accused of holding an illegal meeting.

October

Arrest and detention of Luc Lutwika, Chairman of the People's Power Committee (CPP) of the Central Bank, because he is a relative of Lunda Bululu, an RCD/Goma leader.

Arrest and detention of at least 96 members of the Unified Lumumbist Party (PALU).

Arrest and detention at Mbjui-Mayi airport of Masengo wa Kambamba and Charles Fuamba Mukendi, charged with possession of a copy of a human rights report.

Arrest and detention of Radja Bin Saidi, professor at Lubumbashi University, accused of meeting with an employee of USAID and failing to join the university's CPP.

November

Arrest and detention of a Liberian citizen accused of asking after Xavier Ciribanga, suspected of collaboration with Commander Masasu, who is currently serving a prison sentence.

Arrest and detention of Xavier Ciribanga, a former assistant of Commander Anselme Masasu, in Kinshasa.

Arrest and detention of Sister Antoinette Farhi Mzigire, who administers the Likasi prison hospital, charged with passing information about the medical situation of detainees to foreign powers.

Arrest and detention of Prince Nyamushanja Kisangara, of Rwandan origin, following an interview with UNDP about the situation of persons at risk.

Arrest and detention of Kamitatu Masamba, leader of the Collectif de l'Opposition Plurielle (CODEP), accused of giving an interview to Radio France Internationale.

IV. RIGHT TO FREEDOM OF MOVEMENT

The persons listed below have been deprived of their right freely to enter and leave the Democratic Republic of the Congo.

January

Mukendi wa Mulumba and André Ipakala Abeiye.

February

Boboliko Lokonga, UDPS leader.

Boffasa Djema, leader of the People's Movement for the Revolution (MPR), two days after an interview with the Special Rapporteur.

Confiscation of the passport of Commander Joseph Otenga Baudelaire, a close adviser to General Kisase.

September

Modeste Mutinga, editor of Le Potentiel newspaper.

V. RIGHT TO A FAIR TRIAL

Three illustrations of how the right to a fair trial has been flouted.

The case of Thierry Kyalumba, editor of La Vision, arrested in January and sentenced by the Military Court on 30 March to four years in prison.

Arraignment of the attorneys Lambert Djunga Shango and Pierre Risasi before the Military Court in March, together with their client following a commercial dispute.

Jonathan Mubawa, former deputy chief of DEMIAP, sentenced in July by the Military Court to 15 years in prison on a charge of treason.

VI. RIGHT TO FREEDOM OF EXPRESSION AND OPINION

A. Persons detained for exercising this right

January

Arrest of François Kalima Malangu, charged with supplying information to La Vision magazine, and of the editor of the magazine.

Arrest of André Ipakala Abeiye, editor of La Référence Plus, following publication of an article quoting Mahatma Gandhi.

February

Arrest of Moise Musangana, Clément Kongo Ngambata, Theodore Ngangu, and Emmanual Katshunga, journalists working for Le Potentiel, for criticizing Decree-Law Nos. 194 and 196.

March

Arrest of André Ipakala Abeiye, editor of La Référence Plus, for attending a Congolese civil society meeting in Durban. He was arraigned before the Military Court.

April

Arrest of Gustave Kalenga, editor of La Flamme du Congo, for reporting embezzlement in the Société minière de Bakwanga (MIBA). He was subsequently sentenced to 10 months in prison.

Arrest of Kasonga Tshilunde, editor of L'Eveil, sentenced to six months in prison for reporting embezzlement.

May

Arrest of Stéphane Kitutu O'Leontwa, president of the Congo Press Union, for writing satirical articles.

Arrest of Jean Fidèle Kaluila Mamba, staffer on La Manchette magazine, for editing an article that criticized President Kabila.

June

Arrest of Kiangwe Buleya, editor of Muluka (Lubumbashi), for criticizing Kyungu wa Kumwanza, President Mobutu's former Prime Minister, now an ambassador.

Arrest of Ngoie Kikungula and Fasutin Bella Mako, respectively, editor and chief editor of Lushois magazine (Lubumbashi), for defamation.

July

Arrest of Pastor Mpolondo Musangu of the Fleuve d'eau vive church (Lubumbashi) for sermons criticizing Ambassador Kyungu.

Arrest of Pastor Albert Lukusa of the Cité Evangélique de Kolwezi (Lubumbashi) for the content of his sermons.

Arrest of Pastor Mathieu Mufika of the Kolwezi Evangelical Church for a sermon in which he allegedly criticized Ambassador Kyungu.

September

Journalist Freddy Loseke re-arrested.

Arrest of Lumingu Dodo, Feu d'or Bosange and Kalusha Bokangu, journalists working for L'Alerte-Ndule.

October

Arrest of Persévérence Ndeghey, chief editor of L'Avant Garde.

Arrest of the writer Passou Lundula at Lubumbashi on account of his book Le Destin du Congo.

Arrest of Paulin Tusumba and Michel Godefroid, journalists working for La Libre Afrique, on account of an article they wrote in January.

November

Arrest of Polycarpe Honsek Okwoy, editor of La Solidarité, for writing an article criticizing the Minister of Finance.

Arrest of Kazadi Djodjo Mbayo, chief editor of La Palme d'Or, for writing an article considered defamatory by the authorities.

B. Other violations of these rights

As a result of threats made by the security services, a number of journalists working for the satirical magazine Le Pot Pourri have gone into hiding.

May

Premises of the newspaper L'Alarme ransacked by the Congolese Armed Forces (FAC).

Chief editor of the newspaper Numerica questioned for more than six hours concerning an article about oil companies.

June

Collin Beya Bakatuambamba, editor of Potentiel, held for 24 hours for intending to publish an article about corruption at the heart of the Government.

Premises of La Libre Afrique destroyed by elements of the Rapid Intervention Police (PIR) searching for Freddy Loseke and arrest of nine printworkers on the staff of Le Potentiel.

August

Arrest of Nounou Booto of Le Potentiel and Fidèle Musangu of Le Phare for filming a report about the judiciary.

Mathieu Mpukudi, of Reference Plus, summoned by the Governor of Bas-Congo and warned not to publish any articles about corruption among Government officials.

Ghislaine Dupont, special correspondent for Radio France Internationale, served with a summons in her hotel in Mbuji-Mayi, and confiscation of material relating to her work.

VII. FREEDOM OF ASSOCIATION

A. Threats against human rights NGOs

January

Arrest of Louis Botombili, vice-chairman of "Les Amis de Nelson Mandela", for associating his NGO with the name of Nelson Mandela, considered "an enemy of the Congolese people".

Arrest of Floribert Chebeya, president of Voix des Sans-Voix pour les Droits de l'Homme (VSV), for writing a letter to DEMIAP.

February

Justin Chiba Sengey, VSV member, detained for four hours.

May

Arrest and detention of Laurent Kantu Lumpungu, Chairman of the Association des Cadres Penitentiaires du Congo (ACPC), for compiling a report on the situation of detainees which the authorities claim is untruthful.

June

Floribert Cheya, president of VSV, threatened by the authorities following the distribution of a press release referring to President Kabila.

July

Officers of the National Information Agency (ANR) entered and searched the premises of the Ligue Nationale pour les élections libres et transparents (LINELIT), confiscating and removing a number of documents.

René Kabala, Benjamin Mukulungu and Ferdinand Mafolo, civil society leaders, subjected to intensive searches by the security forces.

Arrest and detention of Bertin Lukanda, a member of the NGO Haki Za Binadamu, accused of secret dealings with the rebellion.

Timothée Dikuiza and Honoré Kapuku Mushila, members of VSV, interrogated by the security services about the organization's president, Floribert Chebeya.

Arrest and detention of N'Sii Luanda, Chairman of the Comité des Observateurs des Droits de l'Homme (CODHO), for issuing a press release condemning the detention of Unified Lumumbist Party (PALU) militants.

September

Arrest and detention of Watemwani Katembo Merikas, member of the administrative board of COJESKI (Kinshasa section), for writing an article about the involvement of Burundi in the present conflict.

Arrest and detention of Ngasu Matadi, executive secretary of the Conseil national des droits de l'homme en Islam (CONADHI), for visiting imprisoned members of PALU.

Arrest, detention and ill-treatment of Clovis Kada, member of LINELIT.

October

Arrest and detention of Charles Mfwamba Mukendi, director of the NGO Centre d'études et de formation populaires (CEFOP), based in Mbuji-Mayi, for dealings with the NGO "Les Amis de Nelson Mandela".

Hamuli Kabarhuza, executive secretary of the Conseil national des organisations non-gouvernementales de développement (CNONGD), barred by the authorities from leaving the country. Confiscation of his papers.

November

Arrest and detention of José Mbu, president of the NGO Lutte contre l'usage abusive des drogues au Congo/Kinshasa (ACDRO). ACDRO premises searched.

B. Threats against political parties

January

Arrest and detention of Mifundu Kahungu, member of PALU, for requesting that political parties should be allowed to operate freely.

Arrest by the National Information Agency of Adrien Phongo Kunda (UDPS), Joseph Mukendi wa Malumba (UDPS), Cleophas Kamitatu Masamba (PDSC), Nyembo Shabani, Boffasa Djema (MPR) and Kisimba Ngoy (Parti de Nationalistes Federalistes (PNF))

Boboliko Lokonga (PDEC) served with a police summons and urged to discontinue his political activities.

Arrest and detention of Alexis Mikwinzi, Ngulu, Kasongo and Luzolo, PALU leaders, for displaying their party's flag the day after the promulgation of Decree-Law No. 194.

February

Arrest and detention of Jean-Claude Mwanbanzambi, UDPS "Parlement debout" militant, for political activism.

Arrest and detention of Mulumba Katshi, a former deputy minister, and Victor Ngoy, an officer of the National Administration Agency, for singing the former national anthem.

Suspension of a press conference held by former health minister Jean Baptiste Sonji on the theme "The transition process and progressive elements in the Congo".

May

Arrest and detention of Jumbel Kapalay, Florent Kibala, Mutwangwefa, Alexandre Yalala, Stephan Ibanga, Oscar Kamba, Lubembula, Macaire and Jerome Matutungila, PALU militants, accused of political activism.

Arrest and detention of Commander Jean de Dieu Amisi N'Shonbo, accused of secret dealings with the enemy and stealing his soldiers' pay.

Arrest and detention of 15 UDPS militants, including a 15 year-old, accused of political activism.

July

Arrest and detention of Mwema Lunda, president of the Union des fédéralistes et républicains indépendants (UFERI, Nguz wing), accused of secret dealings with the rebellion.

Arrest and detention of 108 PALU militants (including a woman and a three-month-old baby) for displaying their party's flag.

Arrest and detention of Christophe Lutundula Apala, spokesman for the Mouvement solidarité pour la démocratie et le développement (MSDD), at the Litho Moboti Group (GLM) building for criticizing the amnesty.

August

Arrest and detention of 11 UDPS militants in Katanga, including Gilbert Musoswa, Valentin Mutonji (a lawyer), Télesphore Tshiwaka Mwepu, Raymond Kabalu Kadima, and Kambaj wa Kambaji accused of passing information to the HRFOC.

Arrest and detention of Pascal Kusehuka, PALU militant, at Kikwit.

Arrest and detention of Ruffin Kikapa, PALU member, at Gungu (Bandundu).

Arrest and detention of approximately 100 PALU militants during a series of incidents in Kinshasa, accused of political activism.

VIII. VIOLATIONS OF TRADE UNION LAW

A. Threats against trade unions

April

Arrest and detention of Mukalay Hanga Kolwa, secretary-general of the Conscience des travailleurs paysans du Congo, following calls for payment of salary arrears and the distribution of flour to Gécamines employees.

Arrest and detention of nine civil service union leaders in Kinshasa by the Rapid Intervention Police (PIR) following a demand for payment of salary arrears and calls for a demonstration.

IX. RIGHT TO FREEDOM OF ASSOCIATION

April

Arrest of 23 students accused of booing President Kabila's motorcade and singing the former national anthem.

Arrest of 72 people accused of booing President Kabila's motorcade and singing the former national anthem.

October

Banning of a meeting of the Campagne Nationale pour la Paix Durable intended to pave the way for the participation of civil society in the inter-Congolese dialogue.

Annex XIII*

Non-exhaustive list of human rights abuses committed in territories controlled by RCD and MLC and brought to the Special Rapporteur's attention

I. RIGHT TO LIFE

A. Political murders

December 1998

Kalehe (South Kivu): killing of Mr. Gashera and his wife and children, all of Bashi ethnic origin, by Rwandan elements.

March

Kimola, Sake area (North Kivu): killing of Makati Yenka Yenka, of Hunde ethnic origin, by Tutsi soldiers who accused him of belonging to the Interahamwe.

Bushaku: killing of a dozen civilians of Bashi ethnic origin by RCD elements during a reprisal operation.

April

Killing of Father Paul Juakali by elements of the self-defence groups established by the RCD.

May

Mpenekusu (Shabunda): killing of Mathias Kingambwe by insurgent troops.

Kazombo: soldiers killed three people identified as Rwandans.

Killing of Dalila Mukuzu by RCD elements who accused him of being in league with the Mai-Mai.

June

Uvira: killing of 12 persons by RCD troops.

Uvira diocese: killing of a driver by RCD troops.

Ruanga: killing of Déogratias Bwima by an RCD officer.

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* Whenever a date is given without a year, 1999 is meant.

November

Kalonge: killing of Father Georges Kakudja and three other people by Rwandan soldiers

B. Arbitrary deprivation of life by members of the armed forces abusing their impunity

February

Bukavu: killing of Bosco Mugaruka by armed insurgent elements.

March

Kambale: Ugandan soldiers robbed and killed a certain Kambale.

Bunia: Ugandan soldiers killed a certain Paluku after stealing his money and his motorbike.

C. Deaths resulting from torture

March

Luvingi: death of a certain Rubaga after being detained by Rwandan soldiers.

December

Death of Desiré Lumbu Lumbu.

D. Forced disappearances

December 1998

Forced disappearance of Djuma Hemedi and his brother Idi Hemedi following their arrest by a Rwandan commander.

February

Forced disappearance of Zainabo (aged 5), Clarisse Muhorakeye, Françoise Sarayi, Beata arengayabo, Mathias Benestor Serushango, an elderly person and a child of 14, all Congolese Hutus, at the Bunagana border post between Uganda and the Democratic Republic of the Congo.

Goma: forced disappearance of Balume Tussi, former governor of North Kivu province.

Forced disappearance of Father Paul Bashombana Cihirwa, accused of belonging to the Interahamwe.

June

Forced disappearance of Buhendwa Mshagalusha following his arrest by RCD soldiers. There are indications that he has been taken to Rwanda.

September

Forced disappearance of Bangenda Balagazi, of the NGO CEDAC (South Kivu), following his arrest at Goma airport, where he was allegedly tortured.

II. RIGHT TO PHYSICAL AND MENTAL INTEGRITY

January

Katindo (near Goma): a certain Akili Kakuji injured by RCD soldiers during an operation to track down members of the interahamwe.

A certain Kadogo of the Rwandan Patriotic Army (APR) shot at and wounded Miss Maombi, for no reason.

Minova: a certain Bizimana Manasi wounded by RCD elements.

Ill-treatment of Mr. Kdamage while in the custody of RCD troops who accused him of belonging to the Interahamwe.

February

Ill-treatment of Friar Jean Bosco Rwasha Cishibanji by RCD soldiers after stating his opinions about the war.

November

Ill-treatment in custody of Henri Kataliko Teso wa Nyunyu, treasurer of the Commission diocésaine Justice et Paix based at Butembo-Beni.

Ill-treatment (200 lashes) of two individuals named Mughanda and Tchale during their detention at the ENRAA underground punishment cell.

III. RIGHT TO SECURITY OF PERSON

Early 1999 (exact date unclear)

Five Angolan students from Cabinda threatened by the security services at Kinsangani following accusations of secret dealings with the Kinshasa Government.

March

Arrest and detention by soldiers of an individual named Ntumwa at Nguba (Bukavu), accused of being Mai-Mai.

June

Arrest and detention of Djuma Emedi and Idi Abdi for demanding the return of their bus which had been confiscated by the RCD.

Arrest and detention of Professor Maheshe, director of Alfajiri College; Mr. Kayomo, director of ONC; Mr. Nyakasika, employee of ISP; a certain Ruhekenya, assistant at ISP; Masu Ga Rugamika; and Babunga, assistant at UEA.

September

Arrest and detention at Goma of Nzabaranyuma Ntezirizoza, Muhima Munyoro, Adolphe Branga, Tabaro Semamera and 16 other persons suspected of aiding and abetting the Interahamwe.

October

Arrest and detention in Orientale province of 14 delegates who attended the civil society meeting on the inter-Congolese dialogue in Kinshasa.

Arrest and detention in Kisangani of Robert Sebe, Jacques Esimbo and Bondoki Batilangi, accused of cooperating with the Kinshasa Government.

IV. DEPORTATIONS

December 1998

The following individuals were allegedly deported to Rwanda: Muhombo, Roger, Kashama, André Ciribagula, Emmanuel Nkala, Pascal Buhendwa, Nkato Kulimshi, Kalengalenga Wasso, Donatien Mbilizi, Kalinda, Paul Kapenda, Jean Kakule, Fulgence Muhindo, François Barhalibirhu, Tabu Vumilia (his wife) and François Namegabe.

November

Deportation to Uganda of Kasereka Kihuvi, vice-president of the Fédération des Entreprises du Congo.

V. RIGHT TO FREEDOM OF EXPRESSION AND OPINION

A number of civil society NGOs which have compiled human rights reports and proposed a civil society peace plan for South Kivu have been threatened and persecuted by the RCD. Several militants have been arrested.

Following threats by the RCD, David Mumbere Bamulango, acting president of Grande Vision, has been forced into exile. Blaise Lolika and 15 civil society leaders in South Kivu have gone into hiding for the same reason.

At Kisangani, members of Groupe Lotus have received threats from the RCD, which has accused them of submitting reports on the human rights situation to the director of HRFOC during his mission to that city.

Harassment by the RCD of members of the NGO Héritiers de la Justice.

May

Nicolas Tartibu, secretary of CREP-LUCODER, Tristan Dunia Mastaki, of PAIF (North Kivu), and Philotin Maanulwa of APREDECI, who had all submitted reports to the Special Rapporteur, went into exile following a number of theats from the RCD. Paluku Mulisya of Grande Vision was forced into hiding.

June

Decision by the governor of South Kivu province to close down and seal the premises of the NGO Groupe Jérémie. The organization's leaders were accused of endangering State security and secret dealings with the enemy. They were also accused of distributing a report on the situation of the rights of young people in rebel-controlled areas. Paulin Bapolisi Bahuga, François Maheshe, Namulache Nyuamutu, Tharcise Muhima, Dr. Geronce Balegamire and Regine Mutijima were threatened.

July

Arrest and detention at Kindu of two individuals named Assumani and Kamakumbi, members of the NGO Haki Za Binadamu.

August

Closure by the RCD of Radio Maendeleo for inciting ethnic hatred. Arrest and detention by the RCD of the journalists Mushizi Nfundiko, Omba Kamangele and Raphael Wakenge, members of the NGO Héritiers de la Justice, which accused them of tuning into military frequencies for espionage purposes.

Interrogation at Kisangani of Dismas Kitenge, president of Groupe Lotus.

September

Interrogation at Goma of Immaculée Bihaheka and Jeanine Mukanirwa of the NGO PAIF, suspected of sympathizing with the Kinshasa Government.

October

Arrest and detention of Vatamwiti Mukesyayira, president of Butembo civil society, accused of attending a preparatory meeting for the inter-Congolese dialogue in Kinshasa.

Arrest and detention of Wabunga Singa, chairperson of the Commission diocésaine Justice et Paix based at Butembo-Beni, by the RCD security services for attending a civil society syposium in Kinshasa. She was ill-treated during her detention at the ENRA centre in Butembo.

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